

Sathish Kumar Vs. Latha and Another

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Court : Chennai

Decided On : Oct-05-2016

Judge : G. Chockalingam

Appeal No. : Crl.R.C.No. 1032 of 2016 & Crl.M.P.No. 8558 of 2016

Appellant : Sathish Kumar

Respondent : Latha and Another

Judgement :

(Prayer: Criminal Revision Case filed under Section 397 of the Code of Criminal Procedure, to call for the records in connection with the C.M.P.No.418 of 2015 in M.C.No.15 of 2011 by order dated 01.06.2016 on the file of the Learned Family Court, Vellore, Vellore District and set aside the order dated 01.06.2016.)

1. This criminal revision case is directed against the order passed by the Learned Family Court, Vellore, Vellore District, in C.M.P.No.418 of 2015 and in M.C.No.15 of 2011 by order dated 01.06.2016, dismissing the condone delay petition filed against the ex-parte order passed in MC.No.15/2011 dated 04.10.2011.

2. The learned counsel for the petitioner mainly contended that the order passed by the Learned Family Court, Vellore, Vellore District in C.M.P.No.418 of 2015 in M.C.No.15 of 2011, dated 01.06.2016 is illegal, arbitrary and erroneous. Hence, the present petitioner filed an application to condone the delay of 1216 days in filing the petition to set aside the exparte order passed by the Learned Family

Court, Vellore, Vellore District. The learned counsel submitted that without considering the entire evidence and records, the Trial Court has erroneously passed the order without affording any reasonable opportunity. Hence, the order of the Trial Court has to be dismissed.

3. The learned counsel for the petitioner submitted that the petitioner appeared for some hearing and on the date of passing of the order, the petitioner remained ex parte. Hence, the petitioner filed CMP No.418/2015 seeking to condone the delay of 1216 days in filing the application against the ex-parte order.

4. The learned counsel for the petitioner submits that the petitioner was not served with any summons from the Learned Chief Judicial Magistrate, Vellore, Vellore District and he was not aware of the ex-parte order passed against him on 04.10.2011. Further, in the petition filed by the respondents herein for collection of arrears of maintenance in C.M.P.No.109 of 2014 also, no notice was served on the petitioner. Subsequently, when the petitioner came to know about the proceedings, he filed an application to set aside the ex parte order.

5. The Trial Court, disbelieved the version of the petitioner that he was suffering from Jaundice on the date of pronouncement of the order on 04.10.2011. But, from a perusal of the records it is evidently clear that he has not produced any medical records to substantiate his claim. Neither he produced the same before the Court below nor before this Court to prove his case.

6. In view of the above such circumstances, there is no sufficient reason stated on the side of the petitioner to condone the delay of 1216 days filing the petition to set aside the ex parte order before the Learned Family Court, Vellore, Vellore District.

7. In the result, the Criminal Revision Case is dismissed and the order passed by the learned Family Court, Vellore, Vellore District, in MC.No.15/2010 dated 01.06.2016 is hereby confirmed. Consequently, connected miscellaneous petition is closed.