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CRR-4609-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE GAJENDRA SINGH

CRIMINAL REVISION No. 4609 of 2024*YASHWANT**Versus**NIRJALA*

Appearance:

Shri Avinash Kumar Khare - Advocate for the petitioner.

Shri Sunder Singh Chawla - Advocate for the respondent No.1.

Reserved on :- 26.06.2025

Posted on :- 02.07.2025

ORDER

This criminal revision under Section 438 read with 442 of BNSS, 2023 is preferred challenging the legality of the order dated 29.05.2024 in Criminal Appeal No. 281 of 2023 by Second Additional Sessions Judge and Special Judge POCSO Act, Indore whereby the appeal under Section 29 of Protection of Women from Domestic Violence Act, 2005 challenging the order dated 08.04.2022 in Case No. 1328 of 2019 by JMFC, Indore has been dismissed on the ground that delay of 12 days in filing the appeal is not explained and the petitioner has not deposited 25% of arrears till 06.01.2023.



2. Facts in brief are that respondent/aggrieved person (wife) filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 seeking various reliefs under Section 18, 19, 20 and 22 of the Act of 2005 and the complaint was registered as Case No. 1328 of 2019. The trial Court proceeded against the respondent ex-parte and vide order dated 08.04.2022 an amount of Rs. 3000/- was awarded as maintenance for the respondent wife and minor daughter Simran from the date of the application i.e. 19.07.2018 and awarded a compensation of Rs. 2 lacs for the domestic violence committed with respondent and her minor daughter. A compensation was to be paid within four months.

3. Respondent preferred an appeal on 04.01.2023 submitting that he got the knowledge of the impugned order when executing warrant was issued in execution proceedings. Appellate Court found that the appeal has been filed with a delay of 12 days and this delay of 12 days has not been explained. The appellate Court further recorded that he has not deposited the 50% of the arrears as directed to the revision petitioner.

4. Revision petition is preferred on the ground that dismissal of the appeal only on the the ground of delay is not proper.

5. Heard.

6. Counsel for the respondent opposed the revision petition as not maintainable.



7. Revision petitioner/husband is a Government servant working in Police Department and reside at House No.8, Police Line, Motithbela, Indore. Paragraph-8 of the order dated 08.04.2022 in Case No. 1328 of 2019 discloses the extremity of violence towards wife and daughter in which a case is registered against this petitioner under POCSO Act, 2012 regarding commission of offence towards the daughter of the revision petitioner. Section 23 (2) of Protection of Women from Domestic Violence Act, 2005 give powers to the Magistrate to grant an ex-parte order on the basis of affidavit of the aggrieved person. Accordingly, the revision petitioner was supposed to comply the order of the Magistrate and along with the compliance of the order he was supposed to challenge the order.

8. In the above light, the revision petitioner is required to first deposit the total arrears within thirty days i.e. upto 31.07.2025 and then if revision petitioner deposit a total amount of arrears then upto 31.07.2025 before the trial Court then the order of the appellate Court have no effect and on submitting the receipt of deposit of money before the trial Court then First appellate Court is expected to restore the Criminal Appeal No. No. 281 of 2023 on record and decide, as per law.

9. Accordingly, Revision petition is disposed of.

(GAJENDRA SINGH)
JUDGE

