

M.C.A. No. 184 of 2016

Kanchan Vs. Dilip.

ORDER BELOW EXH.16

(Dated 20.03.2019)

This is an objection filed by the respondent to the maintainability of application filed below Exh.12 for recovery of outstanding amount of Rs.78,000/-.

2] Heard. Perused the record.

3] The Ld. counsel for the respondent submitted that the application filed below Exh.12 is time barred. The applicant by way of that application trying to recover the amount which is beyond 12 months from which it becomes due. That application for recovery of outstanding amount should have been filed within 12 months as per Section 125(3) of Cr.P.C. Thus, he submitted that the time barred amount now cannot be recovered.

4] The Ld. counsel for applicant Shri. L.G. Tighare submitted that already the main application for recovery of amount since 28.01.2014 to 28.06.2016 is pending. The application (Exh.12) is filed in the same proceeding only to mention the amount due up to the date. He submitted that under such circumstances, the bar of Section 125(3) would not be attracted.

5] Having heard the learned counsel for the respective parties, it is necessary to mention here that the present proceeding is filed for recovery/execution of order passed dated 02.02.2016 under the provisions of Protection of Women from Domestic Violence Act, 2005.

6] It is seen from the record that the main application is for recovery of maintenance and rent amount due from 28.01.2014 to 28.06.2016. That application is for recovery of total amount of

Rs.89,000/-.

7] The application filed below Exh.12 for the recovery of an amount of Rs.78,000/- outstanding for the period of 29.06.2016 to 28.08.2018. The main application is not disposed of. It is still alive. The amount shown in the application is still not fully recovered. Now by way of application (Exh.12), the applicant only has mentioned the amount due up to that date. It was filed only to specify the exact amount which accrued due up to that date. That application can said to be only supplementary or incidental to the main application which was filed within limitation.

8] It is pertinent to note here that the order of maintenance and rent was passed under the provisions of Protection of Women from Domestic Violence Act, 2005. It is the beneficial legislation for women who were subjected to any kind of domestic violence. The Act itself gives power to the Magistrate to adopt its own procedure for disposal of any application filed under the above Act or the Rules framed thereunder. Under such circumstances, considering the nature of legislation and the reasons stated supra, the application filed below Exh.12 cannot be said to be barred by limitation or time barred. Thus, I found no substance in present objection. Hence, order :-

: ORDER :

1.	The objection (Exh.16) is rejected
2.	The application to proceed further.

Mouda.

Date : 20/03/2019.

(R.P. Bathe)

CJJD, Mouda.

Endorsement

Case argued on	: 20.03.2019
Order dictated on	: 20.03.2019
Transcription ready on	: 20.03.2019
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DISTRICT COURT
NAGPUR