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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-07-2026

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THE HON'BLE MR.JUSTICE SHAMIM AHMED

**CRL RC Nos. 1694 & 1712 of 2024
AND CRL MP No. 13997 of 2024**

K.Senthilkumar

..Petitioner in both cases

Vs

S.Priya

..Respondent in both cases

COMMON PRAYER – These Criminal Revision Cases are filed under Sections 438 & 442 of BNSS, against the orders on the file of the Judicial Magistrate No.2 at Madurantakam in CrI.M.P.Nos.2690 & 2293 of 2022 respectively dated 13.08.2024 in M.C.No.6 of 2012 and allow these Criminal Revision Petitions.

(In both cases)

For Petitioner(s):

Ms.K.Madhumitha
for Mr.P.Dinesh Kumar

For Respondent(s):

Mr.A.Arasu Ganeshan

COMMON ORDER

The issued involved and the parties in both the cases are one and the same. Hence, both the cases are decided together.

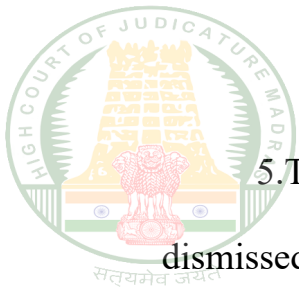
2.The petitioner/husband has filed CrI.R.C.No.1694 of 2024, challenging the order dated 13.08.2024 passed by the learned Judicial Magistrate No.II,



Madurantakam, in Crl.M.P.No.2690 of 2022 in M.C.No.6 of 2012, filed by the respondent, whereby the petitioner was directed to pay the arrears amount to the respondent. The petitioner has filed Crl.R.C.No.1712 of 2024, challenging the order dated 13.08.2024 passed by the learned Judicial Magistrate No.II, Madurantakam, in Crl.M.P.No.2293 of 2022 in M.C.No.6 of 2012, filed by the petitioner, whereby the petition filed under Section 127 of the Code of Criminal Procedure seeking cancellation of the maintenance awarded to the respondent/wife came to be dismissed.

3.In Crl.M.P.No.2293 of 2022, it is the case of the petitioner that there has been some change of circumstances since the date of the order for maintenance dated 01.08.2019. The respondent is earning a sum of Rs.50,000/- per month as salary from her job, apart from getting shares from the agriculture work of her parents. Whiles, the petitioner is living jobless, at the mercy of his parents, since he was put in jail. Hence, considering the financial ability of the respondent, the petitioner, through Crl.M.P.No.2293 of 2022, seeks to cancel the order of maintenance granted to the respondent dated 01.08.2019.

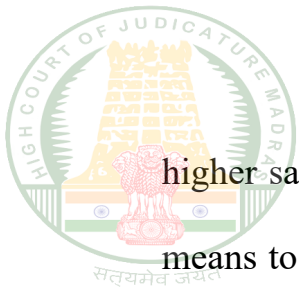
4.Crl.M.P.No.2690 of 2022 was filed by the respondent wife along with her son against the petitioner husband seeking for a direction to the petitioner husband to pay a sum of Rs.4,62,500/-, which is the arrear amount to the respondent along with her son, till August 2022.



5. The learned Trial Court, after considering the arguments on both side, dismissed the petition filed by the petitioner. The Tribunal also took note of the order made in M.C.No.6 of 2012, wherein the respondent wife and the son were awarded Rs.3,500/- each. Mere increase in the salary amount cannot be considered as a sole ground for change of circumstances and as the son had attained the age of majority, he was in the shelter of his mother, the respondent wife only. It was also observed that the petitioner is not supporting his major child and not providing any financial support. Considering all these aspects, the petition filed by the petitioner in Crl.M.P.No.2293 of 2022 was dismissed. The Tribunal allowed the petition in Crl.M.P.No.2690 of 2022, filed by the respondent wife along with her son stating that the petitioner husband is entitled to pay the sum of Rs.4,49,000/- as arrears amount within a period of one month. Failing which, recovery of his property was ordered by the learned Judicial Magistrate.

6. Against the orders passed by the Judicial Magistrate in Crl.M.P. Nos.2293 and 2690 of 2022, the petitioner has filed these two Criminal Revision Cases before this Court.

7. The learned counsel appearing for the petitioner would contend that subsequent to the order of maintenance dated 01.08.2019, there has been a substantial change in the circumstances inasmuch as the respondent is earning a



higher salary, has acquired immovable properties and is possessed of sufficient means to maintain herself. It is therefore contended that the continuation of the order of maintenance is unwarranted and that the learned Magistrate failed to properly appreciate the evidence adduced on the side of the petitioner. The learned counsel for the petitioner contended that the learned Magistrate failed to consider the fact that divorce was granted to the petitioner in H.M.O.P.No.42 of 2016 since the respondent wife had voluntarily withdrawn from the society of her husband without any sufficient cause. The petitioner had already borrowed funds and spent for the educational expenses of the respondent wife, out of which the respondent wife completed her higher studies and now working as a Head of the Department of Computer Science in Malolan College of Arts and Science in Maduranthagam and earning a sum of Rs.50,000/- per month. On perusal of this fact, the Tribunal ought to have held that the respondent is not eligible for any maintenance. Due to the false complaint given by the respondent wife, the petitioner was in jail for more than 30 days and thereafter, is living jobless and unemployed. Even in that situation, the petitioner had paid the 50% of the arrear amount upto the year of October 2019 as directed by this Court, after which the petitioner is facing severe financial crises and not in a position to pay the huge sum of maintenance to the respondent. Hence, the order of the learned Tribunal to pay the arrears in one month is erroneous and passed without considering the facts and circumstances of the case.



8. Per contra, the learned counsel appearing for the respondent would submit that the respondent was already employed even at the time when the original order of maintenance was passed and that the said fact had been taken into consideration by the Court while awarding maintenance. It is further submitted that the petitioner has failed to establish that the respondent derives any income from the properties relied upon by him and therefore no change in circumstances, as contemplated under Section 127 Cr.P.C., has been proved. The learned counsel prayed for a direction to the petitioner to pay the arrears amount as ordered by the learned Tribunal.

9. This Court has carefully considered the rival submissions and perused the materials available on record.

10. The scope of Section 127 Cr.P.C. is limited to considering whether there has been any subsequent change in the circumstances of the parties warranting alteration, enhancement, reduction or cancellation of the maintenance already granted. The burden lies upon the petitioner to establish such change by satisfactory evidence.

11. In the present case, the learned Magistrate has categorically found that the respondent was already employed on the date of passing of the original maintenance order and that the said fact had been taken into account while



granting maintenance. Therefore, the subsequent increase in salary, by itself, cannot be construed as a change in circumstances warranting cancellation of maintenance. This Court finds no infirmity in the said finding.

12. Insofar as the properties relied upon by the petitioner are concerned, the learned Magistrate has examined the documentary evidence in detail and has recorded a finding that several documents pre-date the maintenance order, while the remaining documents do not establish that the respondent is receiving any independent income therefrom. Mere ownership or acquisition of property, in the absence of proof of income generated therefrom, cannot be a ground to cancel the maintenance awarded under Section 125 Cr.P.C. The petitioner has not placed any acceptable material to prove that the respondent has sufficient independent income from such properties.

13. It is true that the son born to the parties has attained majority and the learned Magistrate has already taken note of the same. Consequently, the liability to pay maintenance to the son has ceased. However, that circumstance, by itself, does not extinguish the statutory obligation of the husband to maintain the wife, so long as the conditions prescribed under law continue to exist. Hence, the arrears amount as ordered to be paid to the respondent within a period of one month follows, without any perversity.



14. This Court is satisfied that the learned Magistrate has considered both the oral and documentary evidence in the proper perspective and has assigned cogent reasons for dismissing the petition filed under Section 127 Cr.P.C. No perversity, illegality or material irregularity is demonstrated so as to warrant interference in exercise of the revisional jurisdiction of this Court. Accordingly, both these Criminal Revision Cases fail and the same are liable to be dismissed.

15. In the result, both these Criminal Revision Cases are dismissed, confirming the orders dated 13.08.2024 passed in Crl.M.P.Nos.2293 & 2690 of 2022 in M.C.No.6 of 2012 by the learned Judicial Magistrate No.II, Madurantakam. Consequently, the connected miscellaneous petition is closed.

02-07-2026

Speaking order
Neutral Citation: Yes
GSA

To

The Judicial Magistrate No.2
at Madurantakam.



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CRL RC Nos. 1694 & 1712 of 2



SHAMIM AHMED J.

GSA

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