



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 26.07.2019  
CORAM

WEB COPY

**THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI**

**Cr1.R.C(MD)No.160 of 2019**

**and**

**Cr1.M.P(MD)No.2445 of 2019**

R.Kanagaraj

... Petitioner/Respondent

Vs.

1.Suji

2.Akash

... Respondents/ Petitioners

(Minor rep. by his mother 1<sup>st</sup> respondent)

**Prayer :** This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the impugned order passed by the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District passed in M.C.No.6 of 2018 dated 20.11.2018 and to set aside the same.

For Petitioner : Mr.M.Karuppasamy

For Respondents : Mr.S.Sivakumar

### **O R D E R**

This Criminal Revision Case has been filed praying to call for the records pertaining to the impugned order passed by the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District, passed in M.C.No.6 of 2018, dated 20.11.2018 and to set-aside the same.

2.Heard both sides.

3.It is seen from the records that already the respondent / wife filed a case in M.C.No.6 of 2018, before the learned Judicial Magistrate No.2, Kuzhithurai. But, the petitioner / respondent has not chosen to appear. Hence, the learned Magistrate passed an ex-parte order. Challenging that ex-parte order, the petitioner / respondent is before this Court.

4.The learned counsel for the petitioner submitted that an ex-parte order passed by the learned Magistrate is not a proper and the learned Magistrate has not given any reasonable opportunities to the petitioner / respondent to defend the case.

5.The Court heard the submissions made by the learned counsel appearing for the petitioner and the learned counsel for the respondents and also carefully perused the documents filed on either side.



6. On perusal of affidavit filed by the petitioner, the reasons stated by the revision petitioner are convincing.

7. Accordingly, this Criminal Revision Case is allowed and the order of the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District passed in M.C.No.6 of 2018, dated 20.11.2018 is hereby set-aside. The case is remitted back to the learned Magistrate fresh trial. The learned Magistrate is directed to conduct the trial on day to day basis and complete the same within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS )

To

1.The Judicial Magistrate No.II,  
Kuzhithurai, Kanyakumari District.

2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M.S.SIVAKUMAR, Advocate ( SR-78002[F] dated 26/07/2019 )  
+1 CC to Mr.M.R.SREENIVASAN, Advocate (SR-78174[F] dated  
29/07/2019 )

**Cr1.R.C(MD)No.160 of 2019**  
**and**

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**26.07.2019**

**VSD**

MK (05.09.2019) 2P 5C