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*Crl.M.P.No.3567 of 2022 in Crl.R.C.SR.No.64148 of 2019*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM :

**THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

Crl.M.P.No.3567 of 2022  
in  
Crl.R.C.SR.No.64148 of 2019

Gomathi,  
W/o.Kamalakannan

... Petitioner

**Versus**

Kamalakannan,  
S/o.Boopathi

... Respondent

Criminal Miscellaneous Petition filed under Section 397 and 401 Cr.P.C, to condone the delay of 736 days in filing the Revision against the order made in Crl.R.C.No.32 of 2016 on the file of 2<sup>nd</sup> Additional Session Court, Chidambaram by an order dated 14.09.2017.

For Petitioner : Mr.T.Sundaresan  
For Respondent : Mr.Ravishankar Vallatharasu  
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**ORDER**

This petition has been filed to condone the delay of 736 days in filing the above Revision against the order made in Crl.R.C.No.32 of 2016 on the file of 2<sup>nd</sup> Additional Session Court, Chidambaram by an order dated 14.09.2017.



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2.The petitioner is the wife. She filed a maintenance case in M.C.No.1 of 2015 claiming maintenance from the respondent/husband. By an order dated 07.06.2016, as against the claim of Rs.20,000/- per month, the Trial Court awarded a sum of Rs.7,000/- per month. The respondent alone preferred a criminal revision before the Principal District and Session Judge, Cuddalore and by a judgment dated 14.09.2017, the said revision was dismissed confirming the maintenance amount. It is thereafter with this application to condone the delay of 736 days, the petitioner is filing this revision to enhance the maintenance amount.

3.Firstly, it may be seen that the amount of maintenance of Rs.7,000/- was ordered, the petitioner did not file any revision, only the respondent filed a revision. Therefore, the dismissal of that revision will not give a cause of action to the petitioner for filing an enhancement by showing the date of that order and pray for condonation of delay of 736 days.

4.I am of the view that the actual delay has to be calculated from 07.06.2016. Therefore, the petition filed after five years after the order of maintenance is belated and without any proper explanation.



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5.However, if the petitioner is of the grievance that a sum of Rs.7,000/- granted by the order dated 07.06.2016 is on the lower side or not enough, it is very well open to the petitioner to file such application for enhancement of maintenance under law. With that liberty, this condone delay application is dismissed. Consequently, the Criminal Revision Case is rejected at the S.R. stage itself.

6.It is also brought to the notice of this Court by the learned Counsel for the petitioner that the arrears of even the said amount of Rs.7,000/- is not being paid by the respondent. Therefore, it will be open for the petitioner to file such proceedings in accordance with law to recover the award of maintenance including filing an application for issue of warrant of arrest.

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Index : yes/no  
Speaking/Non-speaking order  
sp

To

The II Additional Session Court, Chidambaram.



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**D.BHARATHA CHAKRAVARTHY, J.,**

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