



Crl.RC.No.1099 of 2021.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 09-01-2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision Case No. 1099 of 2021
and
Criminal Miscellaneous Petition No.14053 of 2021

B. Amjath Khan

.. Petitioner

Versus

1. M.Sameera

2. Minor A. Fathima Sulthana

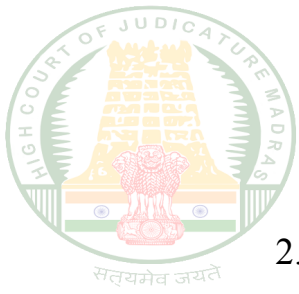
.. Respondents

Criminal Revision Case is filed under Section 397 r/w. 401 of Criminal Procedure Code seeking to set aside the order dated 25.10.2021 in Crl.M.P.No.80 of 2021 in M.C.No.78 of 2020 passed by the learned Additional Principal Family Judge, Coimbatore.

For Petitioner	:	Mr. T. Ganesan
For Respondents	:	Mr. R. Ganesh Babu

ORDER

This Criminal Revision Case has been filed to set aside the order passed by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore in Crl.M.P. No. 80 of 2021 in M.C. No. 78 of 2020 dated 25.10.2021.



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2. The brief facts, which are necessary for the disposal of this

Criminal Revision Case, are as follows:-

2.1. The Revision Petitioner/husband is the Respondent in the maintenance case filed by the Respondent/wife. The maintenance case is filed by the wife/Respondent claiming maintenance for herself and for her minor child. The wife's contention in the maintenance case is that the marriage between the Petitioner and the first Respondent was solemnized on 31.08.2013 as per Islamic rites and customs. Due to the wedlock, the second Respondent was born during October 2014. The marriage is the second marriage for the first Respondent and the first Respondent is having another female child through her earlier marriage. According to the first Respondent, the matrimonial life was by and large peaceful until the year 2019. It is stated that the Revision Petitioner herein is running a furniture show room and for development of his business, he has often demanded money from the father of the first Respondent and this has resulted in matrimonial discord between the couple. According to the first Respondent, she mortgaged the property which stood in her name, arranged a loan and paid it to the Revision Petitioner. Notwithstanding the same, the Revision Petitioner sought some more money and therefore, the first Respondent obtained a second loan and paid the money to him. After receipt of the loan amount, the Revision Petitioner started ill



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treating the first Respondent. The Revision Petitioner also compelled the first Respondent to sell the residential house standing in her name and settle the loan amount borrowed by the Revision Petitioner. When the first Respondent did not give her consent to sell the house, she was subjected to matrimonial cruelty by the Revision Petitioner. However, the Revision Petitioner has given a false complaint against the first Respondent and her father as if they have ill-treated the Revision Petitioner. On enquiry, the Police Officials have found that the complaint given by the Revision Petitioner is *per se* false and vexatious and therefore, they have warned the Revision Petitioner not to give such false complaint. Thereafter, on 09.01.2020, the Revision Petitioner had taken out all his belongings and left the matrimonial home.

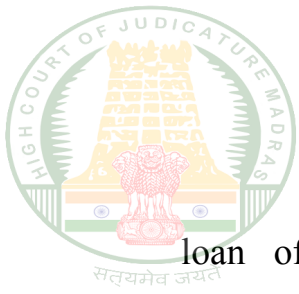
2.2. Thus, from January 2020, the Revision Petitioner left the matrimonial company of the first Respondent. The Respondents are taken care of by the parents of the first Respondent. The Respondents are finding it extremely difficult to meet their basic needs. The first Respondent therefore sent a legal notice on 03.09.2020 calling upon the Revision Petitioner to pay maintenance to them. On 17.09.2020, the Revision Petitioner sent a reply notice denying the averments made on behalf of the Respondents. Thereafter, the Respondents have filed M.C. No. 78 of 2020 before the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore seeking to



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direct the Revision Petitioner to pay a sum of Rs.20,000/- per month towards maintenance for the first Respondent, Rs.15,000/- per month to the second Respondent, totalling Rs.35,000/- per month.

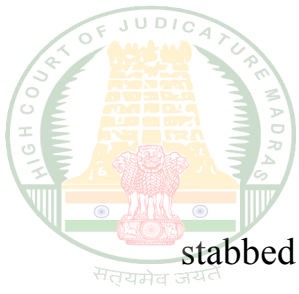
2.3. On notice, the Revision Petitioner filed a detailed counter statement in which he denied the entire averments made in the Maintenance Case. It is stated that the first Respondent had completed her Bachelor of Fashion Technology and running a ready made garment business and stitching shop under the name and style of “Shaba Women Boutique” at Karumbukkadai, Coimbatore. The first Respondent never acted as a dutiful wife and discharged her matrimonial obligations. After the birth of the second Respondent, the first Respondent refused to live with the Revision Petitioner in the matrimonial home. During the subsistence of the marriage, the first Respondent insisted the Revision Petitioner to purchase a vacant land in her name at Coimbatore so that a separate bungalow can be built there. The Revision Petitioner therefore initially gave Rs. 5 Lakhs and paid it to the first Respondent and asked her to purchase the land in the name of the first Respondent. Accordingly, a vacant land measuring 2627 square feet at Sangam Nagar, Phase II, Madukkarai, Coimbatore was purchased on 23.02.2015 in which a house was constructed at an investment of Rs.9 lakhs by the Revision Petitioner. Subsequently, the Revision Petitioner availed a



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loan of Rs.16 lakhs from RELIGARE Housing Development Finance Corporation, Flower Market, Coimbatore, which he used for constructing the building. Thus, the Revision Petitioner totally availed Rs.30 lakhs as loan and is paying the dues thereof.

2.4. While so, during the year 2018, the first Respondent insisted the Revision Petitioner to help her father for his bus body-building business and accordingly, the Revision Petitioner applied for a loan of Rs.25 lakhs out of which Rs.6 lakhs had been paid to the father of the first Respondent. According to the Revision Petitioner, the first Respondent is giving preference to the first daughter born to her and her first husband ignoring the welfare of the daughter born to the Revision Petitioner and the first Respondent. The first Respondent also compelled the Revision Petitioner to bear the educational expenses and other expenses of the elder daughter Nidha but she is not spending any amount out of her business income. During December 2019, the first Respondent demanded Rs.2,00,000/- towards School fee payable to the elder daughter and when it was refused, she insisted the Revision Petitioner to sell the house and pay the fee. In this context, on 02.01.2020 there was a dispute between the Revision Petitioner and the first Respondent with respect to demand of money. When the Revision Petitioner expressed his inability to pay such amount, he was assaulted by the first Respondent and her father and



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stabbed him with a knife on his chest but fortunately, the Revision Petitioner escaped narrowly with a scratch. The Revision Petitioner was admitted in Government Hospital, Coimbatore and on 04.01.2020, he lodged a complaint before the Chettipalayam Police Station for which a CSR receipt was given. During the enquiry conducted on the basis of such complaint, the Police authorities warned the first Respondent and her father for their action. On the other hand, the first Respondent has clearly stated that she is not willing to live with the Revision Petitioner. Thus, due to the attitude and behaviour of the first Respondent, the Revision Petitioner is staying separately in a rented house.

2.5. As far as the maintenance is concerned, the Revision Petitioner suffered severe loss in his business and is unable to repay the loan amount to the bank. On the other hand, the first Respondent is earning out of the boutique business, which she is running. That apart, the first Respondent is in receipt of monthly rental income of Rs.1,20,000/- per month from the commercial shop buildings and residential buildings in No.301, Sunnambu Kalvai Palakad Main Road, Coimbatore. The first Respondent is also owning vacant land worth Rs.5 Crores in Pollachi. Further, the father of the first Respondent is running a bus body-building business through which he is earning considerably. Therefore, the Revision Petitioner contended that the



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question of payment of maintenance to the Respondents does not arise and prayed for dismissal of the Maintenance Case.

2.6. Pending M.C. No. 78 of 2019, the first Respondent also filed Crl.M.P. No. 80 of 2021 under Section 125 (1) (d) of The Criminal Procedure Code to direct the Revision Petitioner to pay Rs.25,000/- per month to the Respondents.

2.7. The petition for interim maintenance was resisted by the Revision Petitioner by filing a counter affidavit. It is stated that the Revision Petitioner had spent all his earnings towards the Respondents, but the first Respondent and her father have thrown him out of the matrimonial house and now he is constrained to live in a small rented house without any home food. The first Respondent is affluent and she had the wherewithal to maintain herself and the second Respondent. The claim for maintenance is made only to harass the Revision Petitioner. The Revision Petitioner therefore prayed for dismissal of the Petition seeking interim maintenance.

2.8. The learned Additional Principal Judge, Additional Principal Family Court, Coimbatore, taking note of the rival submissions, had passed the order dated 25.10.2021 in Crl.M.P. No. 80 of 2021 in MC No. 78 of 2020 directing the Revision Petitioner to pay a sum of Rs.12,500/- as interim maintenance to the Respondents every month till the disposal of the



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maintenance case.

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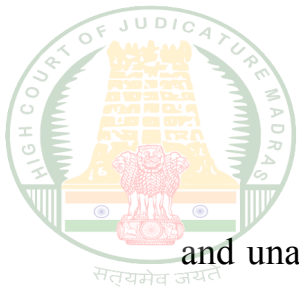
3. The learned Counsel for the Petitioner submitted that the first Respondent is wholly attributable for the matrimonial discord in the family. However, the Revision Petitioner is ready and willing to live with the Respondents unconditionally. The Petitioner also filed a Petition for restitution of conjugal rights before the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore in O.S. No. 76 of 2021 stating that he is ready to live with the Respondents. That apart, the Revision Petitioner also filed G.W.O.P. No. 1394 of 2021 seeking interim visitation right to meet the second Respondent/daughter. In that case, interim order for visitation right was granted to the Petitioner herein. In spite of such visitation right, the first Respondent had not obeyed the interim order of the Court and she had not shown the child to the Petitioner on a single day. The maintenance case in M.C. No. 78 of 2020 as well as the order granted in Crl.M.P. No. 80 of 2021 are legally not sustainable. The application has been filed only to extract money from this Petitioner.

4. It is the submission of the learned Counsel for the Revision Petitioner that the first Respondent is capable of maintaining herself, she is



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having qualification of degree in Fashion Designing and running a business of garments and also stitching shop in the name and style of “Shaba Women Boutique”. The first Respondent is earning more than Rs.80,000/- per month and she can earn more than that and can maintain herself. While so, the question of payment of maintenance does not arise. In any event, the Petitioner is ready to live with the first Respondent and take care of both the Respondents. Still, the first Respondent is adamantly refusing to live with the Petitioner. The present petition is filed only to extract money from the Petitioner. The Respondents are fully aware of the financial capacity of the Petitioner and the the first Respondent is claiming huge amount under the pretext of maintenance only for meeting her lavish life. The first Respondent owns two bungalows and a house. Her father is also a rich person. The first Respondent also refused to come and join the Petitioner in the matrimonial life due to the ill advise of her mother. This Petitioner does not have any duty to maintain the child born to the first Respondent and her first husband through her earlier marriage. The first Respondent had suppressed the fact that she had not obtained proper divorce from her first husband. The marriage between the Petitioner and the first Respondent herein is void. The first Respondent and her father looted the Petitioner's money which he had sent through his earnings in abroad. Now, the Revision Petitioner sustained heavy loss in his business



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and unable to pay his loan dues. The Petitioner is in a pathetic condition. On the other hand, the first Respondent is spending lavishly using the Petitioner's money. The Petitioner had been paying the interim maintenance as per the direction of the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore without any default.

5. The learned Counsel for the Petitioner also submitted that the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore without taking note of the fact that the Revision Petitioner has availed loan for construction of the house, payment of EMI and the other basic necessities to be met, erroneously directed the Petitioner to pay Rs.12,500/- per month to the Respondents towards interim maintenance. Therefore, the learned Counsel for the Petitioner seeks to set aside the order dated 25.10.2021 in Crl.M.P.No.80 of 2021 in M.C.No.78 of 2020 passed by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore.

6. The learned Counsel for the first Respondent (wife) objected to the submission of the learned Counsel for the Revision Petitioner (husband) by contending that the interim maintenance of Rs.12,500/- ordered is very meager and it is grossly insufficient for the Respondents to maintain themselves.



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During the subsistence of the matrimonial life, the first Respondent availed bank loan, but she could not repay it, therefore, the bank had taken recovery proceedings. The Revision Petitioner had deserted the Respondents and thereafter, did not provide any monetary support. The Revision Petitioner is earning at least Rs.2,00,000/- from his furniture business and therefore, he is having the wherewithal to pay maintenance amount to the Respondents.

7. The learned Counsel for the Respondents submitted that the allegation that the first Respondent is spending lavishly is not correct. The first Respondent even though graduated in fashion technology does not get proper employment. She is unable to meet out the educational expenses of her minor daughter. She finds it extremely difficult to maintain herself. Hence, she filed Maintenance Petition against the Petitioner and also filed Interim Maintenance Petition which was partly allowed.

8. The learned Counsel for the Respondents further submitted that the Petitioner admits that he worked in Dubai and returned to India in January 2013 and put up a furniture business. The claim of the Petitioner is that the first Respondent has Bachelor's degree in fashion technology and runs a ready-made garments retail business and has sufficient means to maintain herself.



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These averments are made only to deny maintenance to the Respondents 1 and

2. In order to escape from the obligation of maintaining wife and children, the Revision Petitioner had purposely made wild allegations against the first Respondent and her first marriage. The marriage between the first husband of the first Respondent and the first Respondent was dissolved through a legal forum and it was not suppressed by the first Respondent. The claim of the Revision Petitioner that the first Respondent is giving importance to her elder daughter who was born through her earlier marriage and compelling the Petitioner to meet the educational expenses of her elder daughter are untrue. The claim of the Revision Petitioner that the first Respondent has rented out the said residential bungalow to the third parties, getting monthly rent and also earning huge amount through her Boutique business are not correct. Even though there are allegations and counter-allegations regarding the income of the Revision Petitioner and the first Respondent, both have not adduced oral and documentary evidence before the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore. Both parties have filed their affidavits of assets and liabilities and the husband has filed objections to the assets and liabilities filed by the wife. Considering the relationship as husband and wife and the relationship of the second Respondent in this Petition as minor child born to the first Respondent and the Revision Petitioner, the



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learned Additional Principal Judge, Additional Principal Family Court, Coimbatore had ordered interim maintenance of Rs.12,500/- per month.

Considering the age of the minor daughter and her educational expenses, the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore had rightly ordered maintenance. The Revision Petitioner/husband is duty bound to maintain the wife and the minor child. The Additional Principal Judge, Additional Principal Family Court, Coimbatore ordered only Rs.12,500/- per month from the date of Petition till the date of disposal of the Maintenance Petition and the order of the learned Judge is a well-reasoned order which does not warrant any interference by this Court. The learned Counsel for the Respondents therefore prayed for dismissal of the Criminal Revision Case.

Point for consideration:

Whether this Criminal Revision Case is to be allowed and the order passed by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore in Crl.M.P.No.80 of 2021 in M.C.No.78 of 2020 granting interim maintenance of Rs.12,500/- to the Respondents in this Revision Petition is to be set aside as perverse?



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9. Heard the learned Counsel for the Revision Petitioner and the learned Counsel for the Respondents. Perused the Order passed by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore in CrI.M.P.No.80 of 2021 in M.C.No.78 of 2020.

10. The learned Counsel for the Revision Petitioner seeks to set aside the Order passed by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore granting interim maintenance to the wife and the minor child on the ground that the Revision Petitioner had suffered losses in his business after the Covid Lockdown and unable to pay EMI towards the loan availed by him for the purpose of business. The other point raised by the learned Counsel for the Revision Petitioner is that the first Respondent did not join the matrimonial company of the Revision Petitioner, but she is staying with her father. It is also stated that the first Respondent is running her own business in the name and style of “Shaba Women Boutique” and her father is also rich. Further, the first Respondent owns bungalow and derives income from rent. It is further stated that the Petitioner is suffering for homely food and is suffering a lot.

11. The allegations with respect to the income of the first Respondent



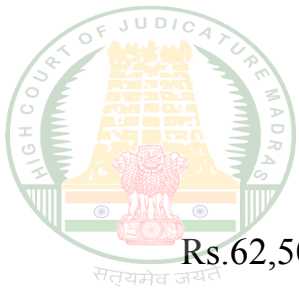
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has been denied as false by the Counsel for the Respondents.

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12. It is to be noted that as per the submissions made by both parties against each other, there is no proof of income or other details other than the affidavit filed by them showing their respective assets and liabilities. As per the reported ruling of the Hon'ble Supreme Court in the case of ***Rajnesh Vs. Neha ((2021) 2 SCC 324)***, maintenance case is to be disposed of as early as possible as the woman who suffer for want of maintenance, had approached the Court seeking maintenance from the husband. Pending the Maintenance Case, interim relief was granted by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore, by considering the rival submissions.

13. In this case, as per the submission of the learned Counsel for the first Respondent/wife, she sought Rs.15,000/- for herself and Rs.10,000/- for the minor child as interim maintenance, but the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore, had granted 50% of the claimed amount viz., Rs.12,500/- as interim maintenance. Even though the Revision Petitioner expressed his inability to pay such amount, he had been continuously paying every month 50% of the maintenance and also deposited



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Rs.62,500/- towards 50% of the arrears of maintenance as per the directions of this Court on 05.01.2022.

14. The points raised by the Revision Petitioner is that the wife/the first Respondent has her own income of not less than Rs.80,000/- per month. Still, she is in the habit of extracting money from the Revision Petitioner besides she has not allowed the Revision Petitioner to see the minor child.

15. As per the submission of the learned Counsel for the first Respondent/wife, to invest in the business, she has mortgaged the property belonging to her father and obtained loan. Subsequently, she is unable to pay and committed default. Therefore, to protect the property, the father of the first Respondent had been paying EMIs, otherwise, the property will be brought to sale by public auction. The claim made by the Petitioner/husband with respect to income of the first Respondent can be considered only after recording evidence and on appreciation of evidence by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore. The difficulties expressed by the husband that he is unable to pay Rs.12,500/- to the wife and minor child as he had suffered losses also can be considered only after appreciation of evidence. Thus, the first Respondent/wife disputes the



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claim of the husband that she earns Rs.80,000/- per month and also she is enjoying rental income from the properties leased out by her

16. It is seen that the first Respondent sought Rs.25,000/- per month as maintenance ie., Rs.15,000/- for herself and Rs.10,000/- for the minor child/second Respondent. Instead of Rs.25,000/-, the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore ordered maintenance of Rs.12,500/- per month in the absence of any evidence adduced by both the parties. Therefore, this Court is of the view that the amount of Rs.12,500/- per month awarded by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore is found reasonable. It is also to be mentioned that the obligation of the Revision Petitioner-husband to maintain his wife and child is not only legal but also moral, considering the present cost of living.

17. During the pendency of the application seeking interim maintenance, both the Petitioner as well as the first Respondent have filed a list of assets and liabilities. It is needless to mention that only after adducing evidence during enquiry in Maintenance Case, the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore will be able to



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appreciate, whether the list provided along with the affidavit filed by the Petitioner as well as the first Respondent in the Maintenance Case is true or not and it will be considered by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore at the appropriate time. When evidence is recorded, when the witnesses are cross-examined, the Courts will be able to appreciate the facts as to whether the assets and liabilities list provided by the Petitioner as well as the first Respondent is true and fair. Till such time, the Courts are unable to grant any relief to the husband. The claim of the husband that the wife deserted him and failed to join in matrimonial life is also to be considered only during enquiry by appreciation of evidence. For the present, the claim of the husband seeking to set aside the interim maintenance by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore is found unacceptable. What are all raised by the Petitioner/husband, are to be considered only after proper appreciation of evidence during enquiry in the maintenance.

18. In the light of the above discussion, the Point for Consideration is answered against the Revision Petitioner and in favour of the Respondents. The order passed by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore in Crl.M.P.No.80 of 2021 in M.C.No.78



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of 2020 granting interim maintenance of Rs.12,500/- to the Respondents in this Revision Petition is found proper.

In the result, this **Criminal Revision Case is dismissed**. The order dated 25.10.2021 in Crl.M.P.No.80 of 2021 in M.C.No.78 of 2020 passed by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore is confirmed. Consequently, the connected miscellaneous petition is closed.

Taking note of the fact that the Maintenance Case in M.C. No. 78 of 2020 is pending for the past four years, the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore, is directed to dispose of the Maintenance Case within a period of four months from the date of receipt of a copy of this order. The learned Additional Principal Judge, Additional Principal Family Court, Coimbatore is directed to dispose of the Maintenance Case without undue delay and without granting unnecessary adjournments and within the limited time of four months on a day-to-day basis.

09-01-2025

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order



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SATHI KUMAR SUKUMARA KURUP, J

dh

To

- 1.The Additional Principal Judge,
Additional Principal Family Court,
Coimbatore.
- 2.The Section Officer,
Criminal Section,
High Court, Madras.

Order made in
Crl.RC.No.1099 of 2021

09-01-2025