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Crl.R.C.No.180 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.180 of 2025

and

Crl.M.P.No.1402 of 2025

M.Thiyagu

... Petitioner

..VS..

1. Renuka

2. Minor Sanvika

Represented by her natural guardian and  
mother Renuka.

... Respondents

Criminal Revision Case filed under Sections 438 read with 442 of  
BNSS, to set aside the order passed in M.C.No.2 of 2020 dated  
16.04.2021 on the file of the learned Judicial Magistrate, Tiruttani.

For Petitioner : Mr.L.Jagasundari Balamurugan  
For Respondents : Mr.S.Thamizharasi

### **ORDER**

This Criminal Revision Petition has been filed to set aside the  
order passed in M.C.No.2 of 2020 dated 16.04.2021 on the file of the  
learned Judicial Magistrate, Tiruttani.



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2. Learned counsel for the petitioner submitted that the respondents herein filed the maintenance case in M.C.No.2 of 2020 before the Judicial Magistrate Court, Tiruttani, seeking maintenance from the petitioner-husband. Though the petitioner-husband could not make his appearance on few occasions in the maintenance case due to Covid-19 Pandemic situation, he was set ex-parte on 16.03.2021. Thereafter, the learned Judicial Magistrate, without giving an opportunity of hearing to the petitioner-husband, on 16.04.2021 allowed the maintenance case and directed the petitioner-husband to pay a sum of Rs.10,000/- per month to the first respondent-wife and a sum of Rs.5,000/- per month to the second respondent-minor daughter. Challenging the same, the petitioner filed a petition seeking to set aside ex-parte order dated 16.04.2021 in M.C.No.2 of 2020 along with the petition for condonation of delay. The Magistrate concerned, allowed the condone delay petition with costs of Rs.2,500/- to the respondents herein in Crl.M.P.No.1090 of 2022 and dismissed the petition in Crl.M.P.No.1328 of 2023 seeking to set aside the ex-parte order. Learned counsel further submitted that the first respondent is not entitled to receive any maintenance, as she had



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voluntarily deserted the matrimonial home without assigning any reason.

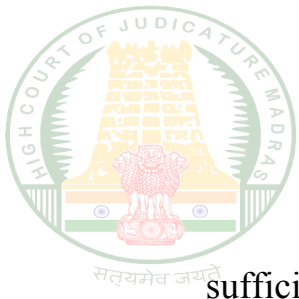
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The petitioner-husband is working in a hotel and he is a person of limited means and also he has to take care of his aged parents and other family members.

3. Learned counsel for the petitioner further submitted that this Court, *vide* order dated 30.01.2025, granted an order of interim stay and directed the petitioner to deposit a sum of Rs.2,50,000/- to the respondents within a period of four weeks from the date of receipt of a copy of the order and to continue to pay Rs.10,000/- to the respondents every month. She further submitted that the order of this Court dated 30.01.2025 has been duly complied with by the petitioner-husband and he has deposited a sum of Rs.2,50,000/- to the Bank account of the first respondent and a Proof of Service has also been filed to that effect.

4. Heard both sides and perused the materials available on record.

5. The main contention of the petitioner is that without providing



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sufficient opportunity of hearing to the petitioner, the Magistrate concerned had passed the impugned order.

6. On a perusal of the impugned order, it is seen that no opportunity was given to the petitioner-husband, as he was set ex-parte. In the interest of justice and in order to give an opportunity of hearing, it would be appropriate to remand the matter for fresh consideration by the Magistrate concerned.

7. In that view of the matter, the order impugned in this revision is set aside and the case in M.C.No.2 of 2020 is remanded back to the Court below for fresh consideration. The Judicial Magistrate, Tiruttani is directed to dispose of the case on merits and in accordance with law within ten days i.e., on 14.03.2025, after affording opportunity of hearing to both sides, since the maintenance case proceedings are summary procedure. Both the parties are directed to appear before the Court below concerned on 05.03.2025 and extend their fullest co-operation for disposal of the case.



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8. With the above directions, this Criminal Revision Petition is allowed. Consequently, connected miscellaneous petition is closed.

03.03.2025

**Note : Issue order copy on 03.03.2025**

Index: Yes/No  
Speaking Order/Non Speaking Order  
Neutral Case Citation : Yes / No  
ms

To

The Judicial Magistrate,  
Tiruttani.



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**P.VELMURUGAN, J.**

ms

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