



Crl.Re. No.1465 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.03.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision No.1465 of 2019

and

Crl.M.P.No.18752 of 2019

Muralidharan

.. Petitioner

Versus

1. Pramila

2. Minor Sweety @ M.Abinaya

.. Respondents

Criminal Revision filed under Section 397 and 401 of Cr.P.C., praying to set aside the Order dated 21.10.2019 passed in F.C.M.C.No.29 of 2017 on the file of the Family Court, Vellore, Vellore District.

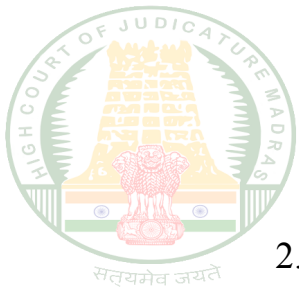
For Petitioner	:	Mr. M. Sathish Kumar
For Respondents	:	Mrs. Vijayalakshmi K. Raja Ratnam Legal Aid Counsel

ORDER

This Criminal Revision had been filed to set aside the Order dated 21.10.2019 passed by the learned Judge, Family Court, Vellore in F.C.M.C.

No. 29 of 2017.

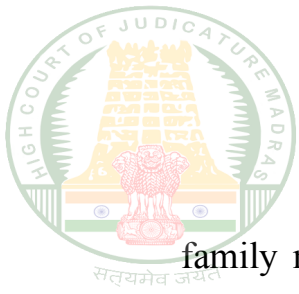
<https://www.mhc.tn.gov.in/judis>



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2. The brief facts, which are necessary for consideration in this Criminal Revision, are as follows:-

2.1. According to the Respondents, the marriage between the first Respondent and the Petitioner herein was solemnised on 23.05.2004 as per Hindu rites and customs. Even after marriage, the Petitioner continued to demand dowry from the first Respondent. Before marriage, the first Respondent was employed as a Nurse but the parents of the Petitioner did not like her to continue the job and curtailed her economic freedom. For the expenses in the matrimonial home, the first Respondent depended on the Petitioner herein and the Petitioner paid all the salary to his parents. The first Respondent lived in a joint family consisting of the father, mother, sister, brother and brother's wife of the Petitioner herein. In the matrimonial home, among the three rooms, one room was allotted to sister of the Petitioner by name Geetha, another one was allotted to Kumaran and the other one was allotted to the parents of the Petitioner. The Petitioner and the first Respondent stayed in the room allotted to the sister of the Petitioner herein. On 04.08.2015, the second Respondent was born and after the birth of the second Respondent, when the first Respondent returned to the matrimonial home, the father of the Petitioner assaulted the first Respondent and the other



family members attempted to untie the *thali* which was resisted by the first

Respondent. The first Respondent was admitted in CMC Hospital, Vellore.

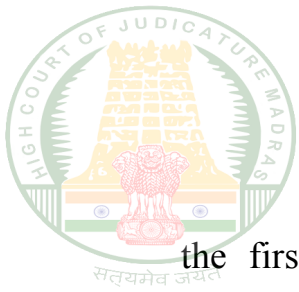
Further, the second Respondent was suffering from congenital acyanotic heart disease and subaortic VSD with muscular extension severe PAH disease and the child is getting continued treatment. Every month, the second Respondent has to get injection at a cost of Rs.3,000/-. However, the Petitioner did not provide any amount for such treatment. Now, the second Respondent is studying VI Standard. The Petitioner has properties of his own and he is a wealthy man. Considering the reasonable medical and other expenses to be met by the Respondents, the first Respondent filed the Maintenance Case under Section 125 of The Code of Criminal Procedure, praying to grant a sum of Rs.10,000/- to her and another sum of Rs.15,000/- to the second Respondent.

2.2. Resisting the Maintenance Petition, the Petitioner filed a counter affidavit stating that it is true that the marriage was solemnised on 23.05.2004 but there was no demand for dowry, as has been alleged by the first Respondent. After marriage, the first Respondent did not extend her cooperation to do the house hold chores in the joint family. The first Respondent also deserted the matrimonial company of the Petitioner often.



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After compromise, the first Respondent will come back to the matrimonial home. When the first Respondent was pregnant, due to a petty quarrel, she jumped from the cot by saying that she does not want to live with him and will not carry the womb and fought with the Petitioner. On 05.12.2004, the first Respondent thrown out the *thali* and went to her parents house. On 04.08.2015, upon information that the second Respondent was born, the Petitioner went to the first Respondent's parents house where he was disrespected. During the year 2016, when it was diagnosed that the second Respondent was suffering from a cardiac disease, the father of the Petitioner paid Rs.1,50,000/- to save the child. Even though the Respondents were invited to the matrimonial home, the first Respondent refused to come back. Even though a panchayat was convened, the first Respondent refused to come back to the matrimonial home. Earlier, the Petitioner therefore filed HMOP No. 228 of 2010 and it was transferred to Family Court, Vellore and on 26.07.2017, the Petition was allowed. During that time, the first Respondent was in receipt of Rs.10,000/- towards interim alimony. By suppressing the same, the present petition has been filed seeking maintenance. Already, the first Respondent filed a Petition seeking divorce before the Family Court, Vellore on the ground of cruelty. As far as the maintenance is concerned, the Petitioner himself is dependent on his father for his livelihood. The claim of



the first Respondent for maintenance is excessive and not maintainable.

Therefore, the Petitioner herein, prayed for dismissal of the Maintenance Petition.

2.3. Before the Family Court, Vellore, the first Respondent examined herself as P.W-1 and one Dr. Sophy Korula was examined as P.W-2 and four documents were marked as Ex.P-1 to Ex.P-4. On behalf of the Respondent, the Petitioner herein examined himself as R.W-1 and the medical certificate of second Respondent was marked as Ex.X-1. The learned Judge, Family Court, Vellore, on considering the oral and documentary evidence observed that the Petitioner was employed as a Civil Engineer and working in a private concern drawing more than Rs.1 lakh per month. Even though it was contended that the Petitioner resigned his job, as per the ruling of the Hon'ble Supreme Court, the Petitioner, being an able bodied person, is bound to maintain his family consisting of wife and minor daughter. It was further observed that as per the medical records and the deposition of Doctor, P.W-2, the second Respondent is suffering from hormone imbalance for which she needs an injection which costs approximately Rs.3,000/- per month. Considering all the above and taking note of the fact that the first Respondent is not gainfully employed anywhere, the learned Judge, Family Court, Vellore, by the order dated



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21.10.2019, directed the Petitioner to pay Rs.10,000/- per month to the first Respondent and another Rs.10,000/- per month to the second Petitioner towards maintenance from the date of filing the petition. Challenging the same, the present Criminal Revision case is filed by the Petitioner-husband.

3. The learned Counsel for the Revision Petitioner submitted that the first Respondent-wife voluntarily left the matrimonial home and inspite of his request as well as the request of elders, she refused to join the matrimonial company of the Petitioner herein. For the medical expenses of the second Respondent, the Revision Petitioner had spent money to the best of his ability. In fact, the Petitioner was subjected to matrimonial cruelty by the first Respondent. Therefore, the Petitioner filed F.C.O.P. No. 64 of 2016 against the first Respondent herein in which a decree of dissolution of marriage was passed on 26.07.2017, after contest. Notwithstanding the same, the Petitioner has paid a sum of Rs.50,000/- towards maintenance on 14.12.2021, Rs.20,000/- on 24.02.2022, Rs.10,000/- on 25.03.2022, Rs.50,000/- on 30.05.2022, Rs.20,000/- on 01.07.2022, Rs.30,000/- on 03.10.2022, Rs.20,000/- on 05.11.2022, Rs.30,000/- on 05.12.2022, Rs.30,000/- on 05.01.2023, Rs.30,000/- on 06.02.2023, Rs.30,000/- on 06.03.2023, Rs.30,000/- on 06.04.2023, Rs.30,000/- on 16.05.2023, Rs.30,000/- on



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16.06.2023, Rs.30,000/- on 23.06.2023 and Rs.60,000/- on 02.08.2023. These

payments have been recorded by the learned Judge, Family Court, Vellore in the above said FCMC No. 29 of 2017. In fact, the second Respondent is pursuing her college studies for which the Petitioner has made certain payments. Even before the Family Court, Vellore, the Petitioner has clearly deposed that he is not working anywhere and is not gainfully employed. The maintenance was awarded based on the salary which the Petitioner earned previously. Above all, the 1st Respondent/wife acquired qualification of B.Ed. and she was working in a School. Even prior to marriage, the first Respondent was a qualified Nurse and subsequent to the marriage, she acquired additional qualifications and completed B.Ed. degree. When the first Respondent is employed and earning and the Petitioner also made some payment notwithstanding his unemployment, the order dated 21.10.2019 passed by the learned Judge, Family Court, Vellore is *per se* arbitrary and contrary to the evidence. In the light of the above developments, the Revision Petitioner seeks to modify the order granting Rs.10,000/- each as maintenance. In any event, the Family Court did not take note of the unemployment of the Petitioner while passing the impugned order dated 21.10.2019 and accordingly, he prayed for setting aside the order passed by the learned Judge, Family Court, Vellore and to allow this Criminal Revision.



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4. Per contra, Mrs. Vijayalakshmi K. Raja Ratnam, the the learned Counsel for the Respondents nominated by the Legal Aid Committee, High Court submitted her arguments. She attacked the grounds B, D and E of the Revision, which reads as follows:-

“b) The trial Court erred in coming to the conclusion that the 2nd Respondent is eligible for the maintenance without following the provisions of Section 125 of Cr.P.C., the marriage of the Petitioner and Respondent was held on 22.05.2004 and the Respondent had not lived with the Petitioner for not more than six months, which resulted in filing of the divorce petition in F.C.O.P.No.64 of 2016 and the same was allowed on 26.07.2017 on the ground of cruelty, and the first Respondent had preferred the Appeal in C.M.A.No.376 of 2018 and the same is pending this vital factor was not considered by the Court below before awarding the maintenance to the Respondent.

d) Though the trial Court had admitted the fact that the Petitioner was not working, even the Petition under 91 Cr.P.C., filed the Petitioner had received the reply that the Petitioner had resigned his job, but basing on the previous salary the maintenance was awarded without appreciating the facts and circumstances and the order of maintenance to the Respondents is liable to be set aside.

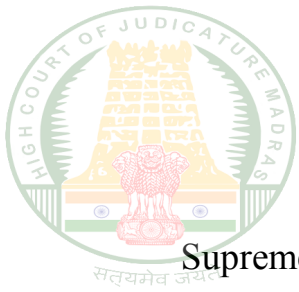
e) The Petitioner had discharged his duty as a dutiful father towards the second Respondent by taking care for her medical expenses this fact was also admitted by the Courts below.”

5. According to the learned Counsel for the Respondent, the Petitioner has not stated as to why he is not going for job, whether he was having any medical ailment which prevented him from going for any job or otherwise. Further, it is the submission of the learned Counsel for the first Respondent/wife that the Petitioner wantonly resigned his job to avoid providing maintenance to the wife and daughter. It is settled proposition of



law that no person can be permitted to take advantage of his/her own fault to prevent the other from getting his or her legitimate claim.

6. The learned Counsel for Respondents invited the attention of this Court to the prayer in the Criminal Revision Case filed by the husband in which he seeks for modification of the order dated 21.10.2019 passed in FCMC No. 29 of 2017. It was substantiated before the Family Court that the second Respondent is suffering from medical ailment for which she requires continued treatment. The Respondents herein also examined the Doctor as P.W-2 and based on the deposition of P.W-2, the Family Court awarded meagre amount of Rs.10,000/- per month to the Respondents herein. As per the reported ruling of the Hon'ble Supreme Court in **Rajnish Vs. Neha** reported in **AIR 2021 SCC 569**, the Court has to draw adverse inference against the conduct of the husband in resigning his job. The Petitioner herein resigned his job only to wriggle out of his duty to pay maintenance to the Respondents. Taking note of the above, the learned Judge, Family Court, rightly directed the Petitioner to pay maintenance to the Respondents at Rs.20,000/- per month, which need not be interfered with by this Court. In support of her contention that the husband is duty bound to maintain the wife and children, the learned Counsel for the Respondent placed reliance on the ruling of the Hon'ble



Supreme Court reported in **2022 Live Law (SC) 805** in the case of **Anju Garg**

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& Anr. Vs. Deepak Kumar Garg. The relevant portion reads as follows:-

“9) At the outset, it may be noted that [Section 125](#) of Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman who is required to leave the matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children, as observed by this Court in [Bhuwan Mohan Singh vs. Meena & Ors.](#) 1. This Court in the said case, after referring to the earlier decisions, has reiterated the principle of law as to how the proceedings under [Section 125](#) Cr.P.C have to be dealt with by the Court. It held as under:

“[In Dukhtar Jahan v. Mohd. Farooq](#) [(1987) 1 SCC 624 : 1987 SCC (Cri) 237] the Court opined that : (SCC p. 631, para 16)

16. “... Proceedings under [Section 125](#) [of the Code], it must be remembered, are of a summary nature and are intended to enable destitute wives and children, the latter whether they are legitimate or illegitimate, to get maintenance in a speedy manner.”

8. A three-Judge Bench in [Vimala \(K.\) v. Veeraswamy \(K.\)](#) [(1991) 2 SCC 375 : 1991 SCC (Cri) 442] , while discussing about the basic purpose under [Section 125](#) of the Code, opined that : (SCC p. 378, para 3)

3. “[Section 125](#) of the Code of Criminal Procedure is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing, and shelter to the deserted wife.” 1 (2015) 6 SCC 353

9. A two-Judge Bench in [Kirtikant D. Vadodaria v. State of Gujarat](#) [(1996) 4 SCC 479 : 1996 SCC (Cri) 762] , while adverting to the dominant purpose behind [Section 125](#) of the Code, ruled that : (SCC p. 489, para 15)

15. “... While dealing with the ambit and scope of the provision contained in [Section 125](#) of the Code, it has to be borne in mind that the dominant and primary object is to give social justice to the woman, child and infirm parents, etc. and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves but have a moral claim for support. The provisions in [Section 125](#) provide a speedy remedy to those women, children and destitute parents who are in distress. The provisions in [Section 125](#) are intended to achieve this special purpose. The dominant purpose behind the benevolent



provisions contained in [Section 125](#) clearly is that the wife, child and parents should not be left in a helpless state of distress, destitution and starvation.”

10. In [Chaturbhuj v. Sita Bai](#) [(2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] , reiterating the legal position the Court held : (SCC p. 320, para 6)

6. “...[Section 125](#) CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in [Capt. Ramesh Chander Kaushal v. Veena Kaushal](#) [(1978) 4 SCC 70 : 1978 SCC (Cri) 508] falls within constitutional sweep of [Article 15\(3\)](#) reinforced by [Article 39](#) of the Constitution of India. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in [Savitaben Somabhai Bhatiya v. State of Gujarat](#) [(2005) 3 SCC 636 : 2005 SCC (Cri) 787] .”

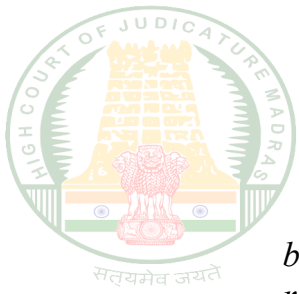
11. Recently in [Nagendrappa Natikar v. Neelamma](#) [(2014) 14 SCC 452 : (2015) 1 SCC (Cri) 407 : (2015) 1 SCC (Civ) 346] , it has been stated that it is a piece of social legislation which provides for a summary and speedy relief by way of maintenance to a wife who is unable to maintain herself and her children”.

10) This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under [Section 125](#) of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In [Chaturbhuj vs, Sita Bai](#)², it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, [Section 125](#) Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of [Article 15\(3\)](#), reinforced by [Article 39](#) of the Constitution of India.



11) *The Family Court, in the instant case had not only overlooked and disregarded the aforesaid settled legal position, but had proceeded with the 2 (2008) 2 SCC 316 proceedings in absolutely pervert manner. The very fact that the right of the Respondent to cross-examine the witnesses of the appellant-original applicant was closed, as he had failed to appear before the Family Court despite the issuance of warrants, clearly established that he had no regards for his own family nor had any regards for the Court or for the law. The allegations made by the appellant-wife in her evidence before the Court had remained unchallenged and, therefore, there was no reason for the Family Court to disbelieve her version, and to believe the oral submissions made by the learned Counsel appearing for the Respondent which had no basis. In absence of any evidence on record adduced by the Respondent disputing the evidence adduced by the appellant, the Family Court could not have passed the order believing the oral submissions of the learned Counsel for the Respondent. She had clearly stated as to how she was harassed and subjected to cruelty by the Respondent, which had constrained her to leave the matrimonial home along with her children, and as to how the Respondent had failed and neglected to maintain her and her children. She had also proved by producing the documentary evidence that her father had paid money to the Respondent from time to time to help the Respondent for his business. Even if the allegations of demand of dowry by the Respondent were not believed, there was enough evidence to believe that money was being paid to the Respondent by the father of the appellant-wife, which substantiated her allegation that the Respondent was demanding money from her father and was subjecting her to harassment. The errant Respondent had also gone to the extent of questioning her chastity alleging that Rachit was not his biological son. There was nothing on record to substantiate his such baseless allegations. His application for DNA test was also rejected by the Family Court. Of course, the Family Court granted the Maintenance petition so far as the appellant no.2-son was concerned, nonetheless had thoroughly mis-directed itself by not granting the maintenance to the appellant-wife.*

12) *Such an erroneous and perverse order of Family Court was unfortunately confirmed by the High Court by passing a very perfunctory impugned order. The High Court, without assigning any reasons, passed the impugned order in a very casual manner. This Court would have remanded the matter back to the High Court for considering it afresh, however considering the fact that the matter has*



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been pending before this Court since the last four years, and remanding it back would further delay the proceedings, this Court deemed it proper to pass this order.”

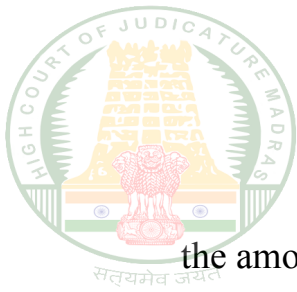
7. In the light of the reported ruling, the learned Counsel for the Respondents/wife and daughter seeks to dismiss this Petition as having no merits.

Point for consideration:-

Whether the order of maintenance passed by the learned Judge, Family Court, Vellore, in F.C.M.C.No.29 of 2017, dated 21.10.2019 is to be set aside or modified as perverse?

8. Heard the learned Counsel for the Revision Petitioner/husband and the learned Counsel for the Respondents/wife and daughter. Perused the records in F.C.M.C. No. 29 of 2017.

9. By the order dated 21.10.2019 passed in F.C.M.C. No. 29 of 2017, the learned Judge, Family Court, has directed the Revision Petitioner to pay Rs.20,000/- per month to the Respondents herein, which cannot be assailed on the ground that it is excessive. Taking note of the escalation of the price rise,



the amount of Rs.20,000/- per month cannot be said to be onerous.

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10. The contention of the Petitioner is that he is not employed and has resigned his employment. In the reported ruling cited by the learned Counsel for the Respondents in **2022 Live Law (SC) 805 in the case of Anju Garg & Anr. Vs. Deepak Kumar Garg**, it was held by the Honourable Supreme Court that the husband is required to earn money even by his physical labour, if he is an able-bodied and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. It was also held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing and shelter by a speedy remedy.

11. In this case, the learned Counsel for the Respondents submitted that the husband claims to have resigned from his job, however, his obligation to maintain his wife and children is not only moral but also legal. This Court find force in such submission of the learned Counsel for the Respondents. Further, it is not known as to how the Petitioner is leading his life without going for any employment or earning any amount. The Revision Petitioner had not furnished any details regarding the circumstances leading to the



resignation from his job. As pointed out in the reported ruling cited by the learned Counsel for the Respondent/wife in **2022 Live Law (SC) 805** in the case of **Anju Garg & Anr. Vs. Deepak Kumar Garg**, even if he is jobless, he is duty bound to maintain his wife and children by earning through physical labour. Even though the first Respondent-wife is qualified it will not in any manner be considered to reduce the maintenance amount directed to be paid by the Revision Petitioner. Further, considering the plight of the child who requires continued treatment for her cardiac ailment, the first Respondent-wife cannot be expected to go for a job. In any event, in the course of the enquiry before the learned Judge, Family Court, Vellore, the Petitioner-husband had not furnished any document regarding the employment of the wife as a Teacher. In the absence of such evidence, the contention of the Petitioner that the Respondent is gainfully employed or capable of earning cannot be accepted by this Court. The fact that the wife had resigned from her job to take care of the second Respondent-daughter who is suffering from a cardiac ailment is found acceptable. After having resigned from her job, she had acquired qualification to become a Teacher. Just because she acquired the qualification to work as a Teacher it does not mean that she was gainfully employed. Therefore, the claim made by the husband that the wife is qualified as a Teacher and is capable of earning cannot be accepted to deny her



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maintenance. As a father, the Petitioner has to bear the expenses for the ailing child and that cannot give him a chance to claim exemption for meeting the maintenance of the wife.

12. In the light of the above discussion, the point for consideration is answered in favour of the Respondent/Wife and against the Petitioner/Husband. The Order passed by the learned Judge, Family Court, Vellore in F.C.M.C.No.29 of 2017 dated 21.10.2019 is found to be well reasoned order. It is not perverse warranting interference by this Court.

In the result, **this Criminal Revision case is dismissed.** The Order passed by the learned Judge, Family Court, Vellore in F.C.M.C.No.29 of 2017 dated 21.10.2019 is confirmed. Consequently, connected Miscellaneous Petition is closed.

03.03.2025

dh

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order



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- To
- 1.The Judge,
Family Court,
Vellore.
 - 2.The Section Officer,
Criminal Section,
High Court, Madras.



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SATHI KUMAR SUKUMARA KURUP, J

dh

Order made in
Crl.RCase No.1465 of 2019

03.03.2025