



C.R.P.No.5648 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.5648 of 2025
and
C.M.P.No.28253 of 2025

R.Dhominic Loordhu

... Petitioner

VS.

A.Philo Jega Mary

... Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the order dated 29.07.2025 passed by the Lower Court F.C.I.A.No.5 of 2025 in F.C.S.M.O.P.No.272 of 2022 on the file of the Family Court at Chengalpattu.

For Petitioner : Mr.K.Velayutham



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Family Court, Chengalpattu in F.C.I.A.No.5 of 2025 in F.C.S.M.O.P.No.272 of 2022, dated 29.07.2025, allowing the application filed by the respondent seeking to condone the delay of 433 days in seeking to restore the divorce original petition, which was dismissed for default.

2. The respondent/wife filed original petition seeking divorce against the petitioner/husband. The said original petition was posted for enquiry on 01.11.2023. On that day, the respondent herein failed to appear and therefore, the same was dismissed for default. Thereafter, the instant application has been filed by the respondent on 04.02.2025 seeking to restore the original petition dismissed for default with the petition to condone the delay of 433 days. In the affidavit filed in support of the condone delay petition, it was stated by the respondent that at the relevant point of time, she was down with severe stomach pain and hence, she could not appear before the Court and contact her counsel. Being satisfied with the reason given in the affidavit, the Trial Court was pleased to allow the



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application. Aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel appearing for the petitioner would submit that the respondent failed to file separate applications to restore the original petition and condone delay in filing restoration petition. It was submitted that a single petition filed for restoration as well as condonation of delay is not maintainable. The learned counsel further submitted that the respondent has given reason only for her absence on the date of enquiry and no reason was given for her failure to file restoration application immediately.

4. As far as the contention raised by the learned counsel for the petitioner regarding failure of the respondent to file two separate application is concerned, it is hypothetical in nature. The respondent in the affidavit given reason for her failure to appear before the Court below. Mere failure to file two application cannot be put against her. After all procedural law is only a handmaid of substantial justice.



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5. As far as reasoning for her failure to file petition within the time limit is concerned, in the affidavit it was stated by the respondent that she was down with severe stomach pain and hence, she could not appear before the Court and instruct her counsel suitably. The Trial Court accepted the reason given by the respondent and exercised its discretion in favour of her and condoned the delay. When the trial Court exercised its discretion and condoned the delay by taking liberal approach, this Court is not inclined to interfere with the said exercise of discretion by the Trial Court.

6. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

14.11.2025

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

WEB COM The Family Court, Chengalpattu.



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S.SOUNTHAR, J.

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