



Crl.O.P.(MD)No.1631 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.03.2025

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.1631 of 2025

and

Crl.M.P(MD) No.1111 of 2025

Palraj

.. Petitioner

Vs.

Minor. Kaviyan

S/o.Paulraj

Rep. through his natural guardian

Marieeshwari

.. Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the in Criminal Revision Petition No.4 of 2024 on the file of the Additional District and Sessions Court, Aruppukottai dated 03.01.2025 confirming the order dated 09.09.2024 in Cr.M.P. No. 429 of 2024 in MC.No.9 of 2024 on the file of the learned Judicial Magistrate, Aruppukottai and set aside the same.

For Petitioners : Mr.T.Antony Arulraj

For Respondent : Mr.C.Suresh Kumar

ORDER

This Criminal Original Petition has been filed to set aside the order passed by the learned Additional District Judge, Sessions Court,



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Aruppukottai in Criminal Revision No.4 of 2024 dated 03.01.2025 confirming the order dated 09.09.2024 in Cr.M.P. No. 429 of 2024 in MC.No.9 of 2024 by the learned Judicial Magistrate, Aruppukottai.

2. The learned counsel appearing for the petitioner would submit that the petitioner is the respondent in M.C.No.9 of 2024 and he filed a petition before the trial Court to recall the witness under Section 311 of Cr.P.C and the same was dismissed. Infact the petition was filed for maintenance for his minor son and already a petition in HMOP No. 71 of 2013 on the file of the Sub Court, Aruppukottai and the marriage was dissolved through consent. Thereafter the respondent has filed petition for maintenance for the minor son. In this case already P.W. 1 was examined on 24.05.2024 and thereafter he was also cross examined and the the petitioner side evidence was closed. Thereafter the petitioner came to know that the mother got married and she is having three children and those facts were not disclosed in the petition. The petitioner filed G.W.O.P petition before the Principal District Court, Srivilliputhur in G.W.O.P. No.159 of 2024 and it is posted for filing counter. Therefore in order to clarify the second marriage and the children born to the mother of the minor son elaborate cross examination is absolutely necessary but the trial



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Court failed to consider the same and dismissed the petition. Against which revision was filed and the revision Court also erroneously dismissed the petition stating that marriage of P.W.1 is not relevant and already chances were given to the petitioner and already he has cross examined the same. Therefore the order passed by the trial Court as well as the revision Court are liable to be set aside.

3. The learned counsel appearing for the respondent would submit that on behalf of the minor son his mother filed a petition against this petitioner seeking maintenance and the petitioner side witness was closed after cross examination of P.W.1. The petitioner filed petition to recall witnesses for cross examination in respect to the second marriage of the mother of the minor son. In the maintenance case for the minor son the marriage of the mother is irrelevant, however the petitioner has filed this petition to that extent. Therefore the trial Court as well as the revision Court had correctly dismissed the petition.

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



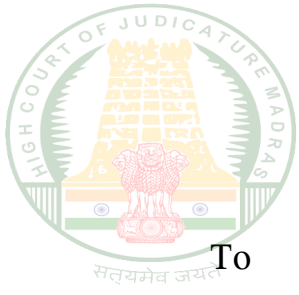
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5. According to the petitioner he filed a petition for recall fo P.W.1 and the same was dismissed. The contention of the petitioner is that the mother of the minor son already got second marriage and inorder to establish that cross examination of the witness is very much essential. This Court also perused the orders passed by the learned Magistrate as well as the revision Court. The learned Magistrate has observed that already the evidence was closed after cross examination by the petitioner. Now the petition is filed to put question in respect of second marriage of P.W.1 and the second marriage is no way relevant to decide the maintenance case for the minor son. The revision Court also took the same view and correctly dismissed the petition. Therefore the order passed by the Courts below are correct and does not warrants interference by this Court. In view of the same, this Court is of the opinion that this petition has no merits and deserves to be dismissed.

6. In the result, the Criminal Original Petition stands dismissed.
Consequently connected miscellaneous petition stands closed.

06.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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1. The Additional District and Sessions Court, Aruppukottai
2. The Judicial Magistrate, Aruppukottai



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P.DHANABAL,J.

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