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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD].(MD)No.1041 of 2025

and

C.M.P.(MD)Nos.5713 & 5715 of 2025

Mary Josephin Felsita ...Petitioner

Vs.

1.Raj
2.State of Tamilnadu
rep. by the Public Prosecutor,
Nagercoil for DVC No.7/2020
on the file of the learned
Judicial Magistrate Court,
Eraniel. ...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 13.11.2024 made in Crl.M.P.No.3874 of 2024 in C.A.No.133 of 2024, on the file of the Principal Sessions Court, Kanyakumari District at Nagercoil in DVC No.7 of 2020 on the file of the Judicial Magistrate, Eraniel.

For Petitioner : Mr.SC.Herold Singh
For R1 : Mr.C.Kishore
For R2 : Mr.B.Saravanan
Additional Government Pleader

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ORDER

This petition has been filed seeking to set aside the order dated 13.11.2024 made in Crl.M.P.No.3874 of 2024 in C.A.No.133 of 2024, on the file of the Principal Sessions Court, Kanyakumari District at Nagercoil in DVC No.7 of 2020 on the file of the Judicial Magistrate, Eraniel.

2.The case of the petitioner is that the marriage between the petitioner and the first respondent's son was solemnized on 19.10.2011 at Church of South India, Lekshmipuram as per Christian Custom. Immediately after the marriage, she came to know that her husband is a mentally depressed person and he is an impotent. Therefore, the petitioner filed divorce petition in DOP.No.442 of 2018 before the Additional District and Sessions Court (Fast Track Court) Nagercoil. By order dated 25.02.2019 divorce was granted. Thereafter, she filed D.V.O.P.No.7 of 2020 before the learned Judicial Magistrate claiming monthly maintenance. The said petition was allowed on 05.09.2024 and directed the first respondent to pay a sum of Rs.10,000/- per month to the petitioner towards monthly maintenance and arrears of maintenance has to be paid from the date of filing petition that is 09.09.2020 and also directed to pay a sum of Rs.50,000/- for paying advance for her rental house and to pay Rs. 5,000/- towards house rent and also directed to pay a sum of Rs.10,00,000/- for

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the mental agony caused to the petitioner. Aggrieved against the said order, the first respondent filed Crl.A.No.133 of 2024 before the Principal Sessions Court, Nagercoil. In the appeal, the first respondent has also filed Crl.M.P.No.3874 of 2024 seeking to interim stay of the order passed by the learned Judicial Magistrate, Eraniel. The learned Principal Sessions Judge, Nagercoil has granted interim stay till the appeal is heard. Challenging the same, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a daughter-in-law of the first respondent. The marriage of the petitioner and the first respondent's son was solemnized on 19.10.2011. The said marriage was arranged by the parents of the petitioner and the first respondent. The first respondent admitted that his son is mentally ill person by birth and suppressing the same, he conducted his son's marriage with the petitioner. Therefore, the petitioner filed DOP No.442 of 2018 before the Additional District and Sessions Court (Fast Track Court), Kanyakumari at Nagercoil. The said petition was allowed on 25.02.2019 by granting divorce. Subsequently, the first respondent's family harassed the petitioner, thereby, the petitioner filed D.V.O.P.No.7 of 2020 before the learned Judicial Magistrate, Eraniel. The learned Judicial Magistrate, Eraniel by its order dated 05.09.2024

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and ordered for monthly maintenance of Rs.10,000/- per month payable by the first respondent to the petitioner and arrears of maintenance has to be paid from the date of filing petition that is 09.09.2020 and also directed to pay a sum of Rs.50,000/- for paying advance for her rental house and to pay Rs.5,000/- towards house rent and also directed to pay a sum of Rs.10,00,000/- for the mental agony caused to the petitioner. Aggrieved against the said order, the first respondent filed Crl.A.No.133 of 2024 before the Principal Sessions Court, Nagercoil. In the appeal, the first respondent has also filed Crl.M.P.No.3874 of 2024 seeking to interim stay of the order passed by the learned Judicial Magistrate, Eraniel. The learned Principal Sessions Judge, Nagercoil has granted interim stay till the appeal is heard without providing any interim maintenance to the petitioner. Challenging the same, the petitioner has filed the present Civil Revision Petition and this Court may grant some interim maintenance to the petitioner payable by the first respondent.

4. The learned counsel appearing for the first respondent would submit that admittedly, the petitioner's family knowing very well the status of the first respondent's son performed the marriage of the petitioner and the first respondent's son. Therefore, the petitioner filed DOP No.442 of 2018 before the Additional District and Sessions Court (Fast Track Court), Kanyakumari at

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Nagercoil. The said petition was allowed on 25.02.2019 by granting divorce. Subsequently, the petitioner filed D.V.O.P.No.7 of 2020 before the learned Judicial Magistrate, Eraniel. The learned Judicial Magistrate, Eraniel by its order dated 05.09.2024 and ordered for monthly maintenance of Rs.10,000/- per month payable by the first respondent to the petitioner and arrears of maintenance has to be paid from the date of filing petition that is 09.09.2020 and also directed to pay a sum of Rs.50,000/- for paying advance for her rental house and to pay Rs.5,000/- towards house rent and also directed to pay a sum of Rs.10,00,000/- for the mental agony caused to the petitioner. Aggrieved against the said order, the first respondent filed Crl.A.No.133 of 2024 before the Principal Sessions Court, Nagercoil. In the appeal, the first respondent has also filed Crl.M.P.No.3874 of 2024 seeking to interim stay of the order passed by the learned Judicial Magistrate, Eraniel. The learned Principal Sessions Judge, Nagercoil has granted interim stay till the appeal is heard. The trial Court has rightly stayed the proceedings which need not be interfered with and prays for dismissal of the petition.

5. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned Additional Government Pleader appearing for the second respondent.

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6. It is seen from the records that the marriage between the petitioner and the first respondent's son was solemnized on 19.10.2011 at Church of South India, Lekshmipuram as per Christian Custom. Immediately after the marriage, she came to know that her husband is a mentally depressed person and he is an impotent. Therefore, the petitioner filed divorce petition in DOP.No.442 of 2018 before the Additional District and Sessions Court (Fast Track Court) Nagercoil. By order dated 25.02.2019 divorce was granted. Thereafter, she filed D.V.O.P.No.7 of 2020 before the learned Judicial Magistrate claiming monthly maintenance. The said petition was allowed on 05.09.2024 and directed the first respondent to pay a sum of Rs.10,000/- per month to the petitioner towards monthly maintenance and arrears of maintenance has to be paid from the date of filing petition that is 09.09.2020 and also directed to pay a sum of Rs.50,000/- for paying advance for her rental house and to pay Rs. 5,000/- towards house rent and also directed to pay a sum of Rs.10,00,000/- for the mental agony caused to the petitioner. Aggrieved against the said order, the first respondent filed Crl.A.No.133 of 2024 before the Principal Sessions Court, Nagercoil. In the appeal, the first respondent has also filed Crl.M.P.No.3874 of 2024 seeking to interim stay of the order passed by the learned Judicial Magistrate, Eraniel. The learned Principal Sessions Judge, Nagercoil has

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granted interim stay till the appeal is heard without providing any interim maintenance to the petitioner.

7. Considering the above facts, the Civil Revision Petition is disposed of directing the first respondent to deposit the arrears of maintenance amount at the rate of Rs.6,000/- from the date of filing of the DVC to till date, within a period of four weeks from the date of receipt of a copy of this order to the credit of D.V.O.P.No.7 of 2020, on the file of the learned Judicial Magistrate, Eraniel and continue to pay a sum of Rs.6,000/- as monthly maintenance to the petitoner on or before 6th day of every month till the disposal of the appeal. On such deposit being made, the learned Principal Sessions Court, Kanyakumari District at Nagercoil is directed to disburse the deposited amount to the petitioner and to dispose of the appeal within a period of one year from the deposit. No costs. Consequently, connected miscellaneous petitions are closed.

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To

1.The Principal Sessions Court,
Kanyakumari District at Nagercoil.

2.The Judicial Magistrate, Eraniel.

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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M.DHANDAPANI, J.

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