



C.M.A(MD)No.326 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2025

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MRS.JUSTICE N.MALA**

**C.M.A(MD)No.326 of 2023
and
C.M.P(MD)Nos.3980 of 2023 & 4117 of 2024**

Durai.Sacratees

... Appellant/Petitioner

Vs.

Gomathi

... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, to set aside the Fair and Decreetal Order dated 09.01.2023 on the file of the Family Court, Tiruchirappalli in H.M.O.P.No.35 of 2014 and grant decree of divorce dissolving the marriage of the appellant and respondent, solemnized on 24.06.1991.

For Appellant : Mr.S.Jayavel

For Respondent : Mr.R.Vigneshwaran



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JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

This Appeal has been preferred as against the Judgment and Decree passed in H.M.O.P.No.35 of 2014 dated 09.01.2023, thereby dismissed the divorce petition filed by the appellant herein on the ground that the appellant failed to comply with the order passed in I.A.No.4 of 2021 on the file of the Family Court. Trichirappalli.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The appellant is the husband of the respondent. They got married and gave birth to two male children. While being so, due to misunderstanding, they got separated and the appellant filed a petition for divorce in H.M.O.P.No.35 of 2014 on the ground of



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cruelty. While the divorce petition was pending, the respondent filed Domestic Violence Complaint No.645 of 2009 on the file of the Additional Mahila Court, Tiruchirapalli, as against the appellant, in which an order of maintenance of Rs.3,000/- in favour of the respondent and Rs.2000/- each in favour of two sons, payable by the appellant per month, was passed. However, it was not complied with by the appellant. Consequently, the respondent filed I.A.No.4 of 2021 before the Family Court in H.M.O.P.No.35 of 2014 seeking to stop the entire proceedings till compliance with the order. Aggrieved by the same, the appellant preferred a Civil Revision Petition before this Court in C.R.P(MD)No.1024 of 2021. During the pendency of the Civil Revision Petition, the Family Court, dismissed the divorce petition filed by the appellant for default, on the ground that the appellant failed to comply with the order passed in the Domestic Violence Complaint. Further, during pendency of the Civil Revision Petition, the appellant herein complied with the order passed in the Domestic Violence Complaint, except with respect to the



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maintenance payable to the sons. The appellant paid the maintenance due to the respondent and also the jewel cost.

4.The learned counsel appearing for the appellant submits that apart from the above payments, he has also paid the insurance amount towards the policies in favour of his two sons. He further submits that the sons attained majority in the year 2015 and are now employed as Software Engineers after completing their Engineering degrees.

5.The learned counsel appearing for the respondent submits that though the appellant had paid the insurance amount, the same cannot be adjusted towards the maintenance ordered in favour of two sons. The maintenance was awarded for the period from 2009 till 2015 ie., until they attained majority. Therefore, even as on today, the appellant has not fully complied with the order passed in the Domestic Violence Complaint.



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6. Admittedly, two sons are now employed as Software Engineers and now they are well off. That apart, the appellant has paid the insurance amounts towards the policies taken in their favour. Insofar as the respondent is concerned, the appellant has paid the entire maintenance amount, and no arrears are pending as on today. He has also paid the jewel cost as awarded in the Domestic Violence Complaint.

7. In view of the above, the order passed by the Family Court in H.M.O.P.No.35 of 2014 dated 09.01.2023 cannot be sustained and is set aside. The matter is remanded back to the Family Court, Tiruchirppalli for fresh disposal on merits, after affording opportunity to both parties to let in evidence. The Family Court, Tiruchirappalli, is directed to dispose of H.M.O.P.No.35 of 2014 within period of three months from the date of receipt of a copy of this order. It is also made clear that the appellant shall continue to pay the maintenance as awarded in the Domestic Violence



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Complaint. The respondent is also at liberty to file application before the Family Court seeking maintenance, if so advised.

8. Accordingly, this Civil Miscellaneous Appeal is allowed.

No costs. Consequently, connected Miscellaneous Petitions are closed.

[G.K.I.J.] & [N.M.J.]
11.12.2025

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

1. The Family Court,
Tiruchirappalli.

2. The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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AND
N. MALA, J.

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