



Crl.R.C.(MD)No.602 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.06.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.602 of 2025

and

Crl.M.P(MD)No.6700 of 2025

Balamurugan

... Petitioner

Vs.

Malar

... Respondent

PRAYER : Criminal Revision Case filed under Section 438 r/w 442 B.N.S.S., to call for the records and set aside the order in Crl.M.P.No.219 of 2024 in Crl.M.P.No.22 of 2022 in M.C.No.12 of 2016, dated 20.09.2024 by allowing the above criminal revision case to set aside the ex parte judgment passed by the Family Judge, Theni, dated 11.01.2024.

For Petitioner : Mr.S.Vikram

For Respondent : Mr.C.Jeganathan

ORDER

The Criminal Revision Case is filed by the petitioner against his wife, who is the respondent herein.



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2. The respondent wife filed a maintenance case in M.C.No.12 of 2016 on the file of Family Court, Theni on 14.12.2016 on behalf of herself and her 2 children. The learned Family Court, Theni allowed the said application on 12.10.2017 directing the petitioner husband to pay a monthly maintenance of Rs.8,500/-. However, the matter was later referred to Lok Adalat and a compromise was arrived at between the petitioner husband and respondent wife herein, wherein it was awarded that the respondent wife is entitled to a monthly maintenance of Rs.8,500/- from the date of application till September 2019, giving her liberty to file an application for enhancement of maintenance. Following which, the respondent wife had filed an application seeking enhancement of maintenance in Crl.M.P.No.22 of 2022. In which, the learned Family Judge passed an order allowing the said application directing the petitioner husband to pay a monthly maintenance of Rs.50,000/- setting the petitioner husband ex parte on 11.01.2024 making it clear that the respondent wife is entitled for the said maintenance from the date of filing of Crl.M.P.No.22 of 2022 i.e., 10.03.2022. Seeking to set aside the ex parte order of enhancement of maintenance, the petitioner husband



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has filed Crl.M.P.No.219 of 2024 under Section 145(2) of BNSS. On 30.08.2024, a conditional order was passed allowing the said petition, to pay a cost of Rs.2000/- in favour of the respondent herein. Since the petitioner failed to pay the said amount, the said application was dismissed for not complying the conditional order on 20.09.2024. Challenging the same, the petitioner husband is before this Court by way of this revision case.

3. The learned counsel for the petitioner categorically submitted that without giving him an opportunity of hearing, he was set ex parte and however, his inability to pay the cost of Rs.2,000/- was due to his medical condition. He also pointed out that he had undergone bypass surgery recently. That apart, he insisted that he is living with another women to whom he has two more children. Hence, his family has become big and he has the responsibility of taking care of his mother as well. Hence, the family boat is trembling in such a condition that he cannot even consider to pay the huge amount of arrears of maintenance of Rs.5,50,000/- as of now.



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4. The learned counsel for the respondent submitted that the petitioner herein is a Driver who is working in the Tamil Nadu Transport Corporation and the application for enhancement of maintenance was filed as early as in the year 2022 and the original maintenance case was filed in the year 2016 and for the past more than 9 years, the petitioner had been dragging on the matter by not complying with the order of maintenance and even now, he is trying to delay the payment of maintenance and this is just a delaying tactics and pressed for dismissal of the revision case.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6. Considering the fact that the petitioner is bound to arrange the marriage of two daughters through his first wife and the living together partner as well as to take care of his mother, this Court is of the considered view that the matter has to be remanded back by setting aside the impugned order. Accordingly, the impugned order, dated 20.09.2024 passed by the learned Family Judge, Theni in Crl.M.P.No.219 of 2024 in



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Crl.M.P.No.22 of 2022 in M.C.No.12 of 2016 is set aside, subject to the condition of payment of Rs.2,00,000/- (Rupees Two Lakhs only) to the credit of M.C.No.12 of 2016 on the file of Family Court, Theni, within a period of one (1) month from the date of receipt of copy of this order. On payment of the said amount, the Family Judge, Theni is directed to take up the matter into file and dispose of the same within a period of two (2) months from the date of restoration of the same, on merits. On payment of the same, the respondent wife is permitted to withdraw the same.

7. Accordingly, this Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is closed.

04.06.2025

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

1. The Family Judge,
Theni.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI ,J.

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Order made in
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Dated: 04.06.2025