



CRL RC(MD)No.689 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.689 of 2025

S.Fathima Beevi

... Petitioner/ Petitioner

Vs.

K.Mohaidheen

... Respondent / Respondent

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to set aside the order passed by the learned Additional Chief Judicial Magistrate, Madurai, in Crl.M.P.No.4185 of 2024 in M.C.No.01 of 2024 dated 26.03.2025.

For Petitioner : Mr.S.M.A.Jinnah

For Respondent : Mr.K.C.Ramalingam

ORDER

Challenging the order passed by the learned Additional Chief Judicial Magistrate, Madurai, in Crl.M.P.No.4185 of 2024 in M.C.No.01 of 2024 dated 26.03.2025, the petitioner wife is before this Court.

2. The petitioner herein is the petitioner before the learned Trial Court and she is the wife of the respondent. She preferred an application under Section 125 of the Code of Criminal Procedure, 1973, seeking an interim



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maintenance of Rs.50,000/-. The petitioner claimed before the learned Trial Court that she was a divorcee, while she was residing with her maternal family, the respondent who is serving as a Junior Assistant hailing from Achanpudur, had proposed to marry the petitioner through her brother one Ahmed, brother-in-law one Ibrahim and other relatives. Accepting his proposal, the petitioner was given in marriage to the respondent on 23.06.2021 by entering into an agreement of marriage before a notary public. During the period when they lived together, the petitioner had given her jewels and many other savings with the profound belief that she was aiding her husband in her financial implications. However, in due course of time, the respondent did not turn up and had deserted the petitioner subjecting the petitioner to untold misery and difficulties. That apart, he also did not return the money whatever he had received from the petitioner. Hence, pointing out that the respondent is serving as a Junior Assistant and is drawing a salary of Rs.80,000/-, she sought for an interim maintenance of Rs.50,000/- during the pendency of the maintenance case.

3. Per contra, the counter affidavit was filed by the respondent husband before the learned Trial Court in which it was categorically contended that the petitioner is not at all his wife and they had been friends since their childhood and there was no necessity for him to borrow any money or jewellery from the petitioner and all the stories which has been



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alleged by the petitioner, as against the respondent are false narrations. The claim of the petitioner that she was given in marriage to the respondent before a notary public is also imaginary and she had concocted certain documents in that regard with falsity and he also categorically submitted that any marriage solemnized before a notary public is not legally valid in India and as such he is not at the duty to maintain the petitioner and sought for dismissal of the application for interim maintenance.

4. The learned Trial Court after considering the petition filed by the petitioner, counter affidavit filed by the respondent and the arguments by the respective parties had proceeded to dismiss the application for interim maintenance, recording the fact that in the event of the respondent's denial that he had ever married the petitioner at any point of time, the factum whether the petitioner is the wife of the respondent could be substantiated only after the conclusion of the trial and since Section 125 of the Code of Criminal Procedure, 1973, mandates that it is only wife who is entitled to claim maintenance. The question as to whether the petitioner is entitled to receive maintenance from the respondent could be decided after trial and proceeded to dismiss the petition for interim maintenance. Challenging the same, this Criminal Revision case is filed.



5. The learned counsel for the petitioner, Mr.S.M.A.Jinnah, relying upon the judgment passed by the Hon'ble Supreme Court in the case of **Kamala and others vs. M.R.Mohan Kumar**¹ submitted that the term “wife” as defined in Section 125 of Criminal Procedure Code, 1973, cannot be confined to the legally married wife alone and it could be interpreted extensively by bringing within its folds those women who are living with a man and in the instant case, this is a clear case of living together and the respondent had not refused that he had lived with the petitioner for a certain period of time and on that premise pressed for allowing the Criminal Revision case.

6. Per contra, the learned counsel for the respondent Mr.K.C.Ramalingam, relying upon the judgement passed by the Hon'ble Apex Court, in the case of **Indra Sarma Vs. V.K.V.Sharma**², categorically contended that the petitioner had entered into this relationship knowing well that the respondent was a married person and had encouraged bigamous relationship, by entering into such a relationship, the petitioner had intentionally committed an act by interfering with the marital relationship of the respondent and hence, he insisted that whenever a person enters into a bigamous relationship with a married man with full knowledge that he is already married, such a relationship is not a

1 Criminal Appeal Nos.2368 to 2369 of 2009 dated 24.10.2018

2 CDJ 2013 SC 1030



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relationship in the nature of marriage and he categorically pointed out that any direction which if given to the respondent to pay maintenance or monetary consideration to the petitioner, that would be at the cost of the legally wedded wife and children of the respondent, in view of the same, there is no infirmity in the order passed by the learned Trial Court and pressed for dismissal of the Criminal Revision case.

7. Heard the learned counsels on either side and carefully perused the materials.

8. Though I don't contradict with the proposition of law put forth by the learned counsel for the respondent, in the instant case, the parties are Muslims. Hence, the judgment relied upon by the learned counsel for the respondent is not applicable to the facts and circumstances of this case and as far as the personal law of the Muslims are concerned, a man is entitled to legally marry up to four women and convincingly both the petitioner and the respondent are muslims.

9. Accordingly, this Criminal Revision case is allowed by setting aside the impugned order passed by the learned Trial Court by directing the respondent to pay interim maintenance of Rs.7500/- (Rupees Seven



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Thousand and Five Hundred only) from the date of receipt of copy of this order every month till the disposal of the main maintenance case in M.C.No. 01 of 2024, before the learned Additional Chief Judicial Magistrate, Madurai. No costs.

19.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

The Additional Chief Judicial Magistrate,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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