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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.744 of 2025

1.Hemalatha @ Priya
2.Minor Harivardhan ... Petitioners
(Rep. By his mother/natural guardian
Hemalatha @ Priya)

-vs-

Nagarajan @ Nagendran ... Respondent

PRAYER : Criminal Revision Case is filed under Section 438 r/w. 442 of BNSS, 2023, to call for the records relating to impugned judgment dated 09.04.2025, passed in M.C.No.8 of 2022 on the file of the learned Family Court, Tiruchirappalli and set aside the same as far as the dismissal of 1st petitioner's claim.

For Petitioners : Mr.K.S.Kathiravan
For Respondent : Mr.S.Balasubramanian

ORDER

Challenging the order passed in M.C.No.8 of 2022 dated 09.04.2025, on the file of the learned Family Court, Tiruchirappalli, this Criminal Revision Case is filed.

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2.The petitioners are the petitioners before the Family Court in M.C.No.8 of 2022. The respondent herein is the husband of the first petitioner. The learned Trial Court examined two witnesses on the side of the petitioners i.e., first petitioner as P.W.1 and her mother as P.W.2 and marked Ex.P1 to Ex.P5. The respondent herein is the husband of the first petitioner was examined as R.W.1 and one document was marked on the side of the respondent. The respondent is working as an Office Assistant before Tiruchirappalli District Court and drawing a monthly salary of Rs. 25,000/-. However, he had deposed evidence stating that he had availed a loan from SBI, for which he had to pay a monthly installment of Rs.4,500/- and he himself need Rs.22,000/- for his monthly expenditure. He did not submit his salary slip before the learned Trial Court. Since he failed to produce salary slip, the learned Trial Court observed that he had failed to prove his income with proper documentary evidence. Further the learned Trial Court considered the evidence deposed by P.W.1 and her mother P.W. 2. The respondent husband has filed a counter before the learned Trial Court stating that the first petitioner possess four houses at Ponmalaipatti and she is earning a lumpsum income as rent from the aforesaid houses. However, the same was not agreed by the petitioners. But while cross examination of P.W.2, she deposed that her daughter ie., first petitioner who was examined as P.W.1 is employed and it is P.W.2, who is taking care of the second petitioner and that she possess own house and she is receiving a rental income of Rs.15,000/- per month. Further the learned

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Trial Court observed that the first petitioner is already employed and she herself can maintain herself and proceeded to pass the order of maintenance directing the respondent herein to pay Rs.7,500/- as maintenance to the second petitioner from 06.01.2022 and refrained from passing any order in favour of the first petitioner wife. This Court also directed the respondent to pay maintenance to the second petitioner within 7th of every calender month. The petition was partly allowed by the learned Trial Court with cost of Rs.1,000/- to the respondent. Challenging the same, the Criminal Revision Case is filed.

3.The learned counsel appearing for the petitioners submitted that though the learned Trial Court had passed an order of maintenance in favour of the second petitioner to the tune of Rs.7,500/- per month from 06.01.2022, the total arrears of Rs.3,22,500/-, which the respondent has wantonly and wilfully failed to pay. Further he also submitted that the first petitioner is not employed as observed by the learned Trial Court and she is unemployed and hence, the order of the learned Trial Court should necessarily be interferred and the respondent is directed to give maintenance to the first petitioner as well. It is also brought to the notice of this Court by the learned counsel for the petitioners that he has already filed Crl.M.P.No.24 of 2025 seeking the learned Family Court to enforce the order dated 09.04.2025.

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4.The learned counsel appearing for the respondent submitted that the factum of the first petitioner being employed was proved duly by the evidence deposed by her mother P.W.2 herself in the cross examination and there is no infirmity in the order passed by the learned Trial Court refraining from passing any order of maintenance in favour of the first petitioner. He also submitted that with a limited salary of Rs.25,000/-, an amount of Rs.7,500/- if paid to the second petitioner, would cause heavy financial constrains to the respondent and prayed to reduce the same.

5.Heard the learned counsels on either side and carefully perused the materials available on record.

6.Since the factum of the first petitioner being employed is duly proved by putting up a proper question, while cross examination of P.W.2, who is none other than mother of P.W.1, who is the first petitioner herein, I do not find any infirmity in the order passed by the learned Trial Court by observing that the first petitioner has the capacity to maintain herself. As far as the second petitioner is concerned, it is the responsibility of the father who is the respondent herein to take care of his child. Hence, this Court heavily coming down against the attitude of the respondent for not even paying a single penny complying with the order passed by the learned Trial Court, the respondent is directed to pay the total arrears of Rs. 3,22,500/- to the credit of M.C.No.8 of 2022 on the file of Family Court,

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Trichirappalli, within a period of one week from the date of receipt of copy of this order. The learned District Judge, Trichirappalli, is directed to deduct an amount of Rs.7,500/- from the respondent's salary and credit the said amount in the account of M.C.No.8 of 2022 on the file of Family Court, Trichirappalli every month. The first petitioner on behalf of the second petitioner is at liberty to withdraw the same by making suitable application.

7.Hence, this Criminal Revision Case is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

05.08.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes
Mrn

To

1.The District Judge, Trichirappalli.

2.The Judge, Family Court, Trichirappalli.

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L.VICTORIA GOWRI, J.

Mrn

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