



CRL RC(MD)Nos.945 of 2024 and 93 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.08.2025

PRONOUNCED ON : 20.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)Nos.945 of 2024 and 93 of 2025

and

CRL MP(MD)No.998 of 2025

CRL RC(MD)No.945 of 2024:

1.Mubarak Begam

2.Azeema

... Petitioners /Petitioners

Vs.

S.C.Sardar

... Respondent /Respondent

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, to call for the records pertaining to the orders passed in M.C.No.15 of 2016 on the file of the Family Court, Madurai, dated 18.04.2024 and enhance the maintenance award for the petitioners and further direct the respondent to pay a education expense incurred to the 2nd petitioner.

For Petitioner : Mr.S.Vijayakumar

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



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CRL RC(MD)No.93 of 2025:

S.C.Sardar

... Petitioner

Vs.

1.Mubarak Begam

2.Azeema

... Respondents

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, to call for the records and set aside the order passed by the learned Family Court, Madurai, in M.C.No.15 of 2016 dated 18.04.2024.

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

For Respondent : Mr.N.Kamesh

COMMON ORDER

Preface:

These two Criminal Revision Cases arise out of a common order dated 18.04.2024 passed by the learned Judge, Family Court, Madurai, in M.C. No.15 of 2016.

2. The husband, S.C.Sardar, has filed Crl.R.C.(MD)No.93 of 2025, challenging the order directing him to pay maintenance of Rs.8,000/- (Rupees Eight Thousand only) per month each to his wife and daughter.



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3. The wife, Smt. Mubarak Begam, and her daughter have filed Crl.R.C.(MD) No.945 of 2024, seeking enhancement of the maintenance amount and inclusion of educational and marriage expenses of the daughter.

4. Since both the revisions arise from the same proceedings, they are disposed of by this common judgment.

5. For the sake of convenience, the parties herein are referred to as per their ranking before the learned Trial Court.

Facts of the petition in M.C. No.15 of 2016:

6. Case of the Petitioners (Wife and Daughter):

The marriage between the first petitioner, Smt. Mubarak Begam, and the respondent, S.C.Sardar, was solemnized on 17.11.1996 as per Islamic rites and customs through the Srivilliputhur Thahakkath Jamaat. After marriage, they lived together at Madurai, and a female child, Ajeema, was born on 07.01.1999. The first petitioner alleged that after some years, the respondent began to ill-treat her and made



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persistent demands for dowry. She was subjected to physical and mental cruelty and driven out of the matrimonial home on several occasions. Though community elders mediated, the relationship deteriorated. It was further alleged that the respondent owns about 10 shops and two houses, all settled on him by his mother, and earns approximately Rs.1,00,000/- (Rupees One Lakh only) per month as rental income. Despite such means, he neglected to maintain his wife and child. The respondent pronounced Talaq on 28.12.2004, which was later declared invalid by the competent Court. Thereafter, the parties have been living separately. The first petitioner, engaged in tailoring work at home with a meagre income, struggled to educate her daughter. Hence, she sought Rs.25,000/- (Rupees Twenty Five Thousand only) per month for herself and Rs.35,000/- (Rupees Thirty Five Thousand only) per month for her daughter.

7. Case of the respondent (Husband):

The respondent admitted the marriage and paternity but denied the allegations of cruelty. He contended that the first petitioner was quarrelsome, extravagant, and unduly influenced by her mother, who insisted that he transfer his properties to their daughter. The respondent stated that on 24.12.2004, the first petitioner voluntarily



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left the matrimonial home after publicly removing her marriage chain and declaring separation. Thereafter, he pronounced Talaq on 28.12.2004 as per Islamic custom. He has since remarried and has a son through his second wife. He further pleaded that he suffers from partial blindness, spinal complications, and severe pain in the knees and ankle, rendering him incapable of gainful employment. He claimed that the first petitioner herself owned four houses, a nursery school, and agricultural land, earning approximately Rs.1,00,000/- (Rupees One Lakh only) per month. Hence, he sought dismissal of the maintenance petition.

Gist of the Order in M.C. No.15 of 2016:

8. Upon appreciation of oral and documentary evidence, the Family Court, Madurai, recorded the following findings that the first petitioner was unable to maintain herself, earning only a nominal income through tailoring. The second petitioner, at the time of filing, was a student pursuing her B.E. (E.C.E.) degree. The claim that she was employed was unsupported by any documentary evidence. The respondent failed to prove his medical incapacity or lack of income. On the contrary, he admitted to owning rental-yielding properties. The learned Trial Court found that the separation was caused by the



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respondent's conduct and not voluntary desertion by the wife.

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9. On the side of the petitioner, the wife was examined as PW1 and Exhibits 1 to 8 were marked through her. On the side of the respondent, the husband was examined as RW1 and Exhibits R1 and R2 were marked.

10. The learned Trial Court applied Section 125 Cr.P.C., 1973, and held that the husband was under a legal obligation to maintain his wife and daughter. Considering his means and the needs of the petitioners, the learned Trial Court directed the respondent to pay an amount of Rs.5,000/- (Rupees Five Thousand only) per month from the date of petition till 18.04.2024 and Rs.8,000/- (Rupees Eight Thousand only) per month thereafter towards the 1st petitioner (wife) and Rs. 8,000/- (Rupees Eight Thousand only) per month from the date of petition till completion of her college education towards the 2nd petitioner (daughter) and arrears to be cleared within two months by ECS transfer, with UTR details to be furnished to both petitioners and the learned Trial Court.



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11. *Grounds of Revision in Crl.R.C.(MD) No.93 of 2025 filed*

by the Husband:

The petitioner contends that the learned Family Court failed to afford sufficient opportunity to adduce additional medical evidence and to participate in cross-examination. The learned Trial Court itself recorded that the parties have been living separately for nearly 20 years, yet mechanically directed payment of maintenance. The petitioner's medical evidence showing disability was not permitted to be marked. The petitioner seeks invocation of Section 391 Cr.P.C., 1973 (now Section 432 BNSS, 2023), to adduce additional evidence on medical incapacity. Reliance is placed on *Ajitsinh Chehuji Rathod v. State of Gujarat*, *Ashok Tshering Bhutia v. State of Sikkim* (2011), and *Ram Babu v. State of Maharashtra* (2001) regarding the limited scope of additional evidence in appellate or revisional stages. Non-consideration of medical incapacity caused grave prejudice and mental agony.

12. *Grounds of Revision in Crl.R.C.(MD) No.945 of 2024 filed*

by the Wife and daughter:

The petitioners contend that the learned Family Court failed to award educational expenses proved under Ex.P8. The obligation of a father to maintain an unmarried daughter continues until her marriage.



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The 2nd petitioner, aged 25, remains unemployed, and the father is bound to support her marriage. The 1st petitioner's mother has passed away, and she is in financial distress. The learned Family Court awarded an inadequate amount, despite the respondent's substantial income. The maintenance should therefore be suitably enhanced.

Submissions:

13. The learned counsel for the husband / petitioner in CrI.R.C. (MD)No.93 of 2025 submitted that the petitioner was denied a fair opportunity to prove his medical incapacity and inability to earn. The learned Family Court, without appreciating these circumstances, passed the impugned order. The learned counsel appearing for the husband urged that the power under Section 391 Cr.P.C., 1973, be invoked to permit production of additional medical evidence.

14. The learned counsel appearing for the wife and daughter / petitioners in CrI.RC(MD)No.945 of 2024 contended that the learned Family Court failed to consider the escalating cost of living, educational expenses, and the father's continued obligation till the daughter's marriage. The respondent's financial condition and ownership of several



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shops and houses were ignored. Hence, enhancement of maintenance and direction for payment of marriage expenses were sought.

15. Heard the learned counsels on either sides and carefully perused the materials available on record.

16. *Points for Determination:*

(i) Whether the order of the learned Family Court suffers from procedural irregularity for not permitting the husband to mark additional evidence?

(ii) Whether the quantum of maintenance awarded requires modification or enhancement considering the facts and financial capacity of the parties?

Analysis:

17. The materials on record clearly show that the parties have been living separately since 2004. The alleged Talaq was not legally sustained, and therefore, the marital relationship subsists. The plea of medical incapacity raised by the respondent husband remains



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unsubstantiated. No medical practitioner was examined, nor were any hospital records produced. The request to adduce additional evidence at this stage cannot be entertained as an afterthought. The petitioner never moved any application before the learned Family Court seeking reopening of evidence. The scope of Section 391 Cr.P.C., 1973 (now Section 432 BNSS, 2023) has been succinctly laid down in **Rajeswar Prasad Misra v. State of West Bengal**¹ and **Ashok Tshering Bhutia v. State of Sikkim**² wherein stated that such powers are to be exercised sparingly and only when the failure to produce evidence was not due to negligence. No such exceptional circumstance is made out in the present case.

18. The learned Family Court rightly found that the first petitioner / wife has no independent source of income and that the husband, though remarried, continues to be under a statutory obligation to maintain his lawful wife. His ownership of rental-yielding properties and ability to maintain another family demonstrate sufficient financial means. As regards the 2nd petitioner, she is an unmarried daughter, aged 25, dependent on her mother. The father's responsibility continues

1 AIR 1965 SC 1887

2 2011) 4 SCC 402



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until her marriage, as held in **Jagdish Jugtawat v. Manju Lata**³ and **Abhilasha v. Prakash**⁴.

19. Hence, I am of the considered view that the amount of Rs. 8,000/- (Rupees Eight Thousand only) each awarded by the learned Family Court is clearly inadequate in view of the present cost of living, educational expenses, and the respondent's financial status. Equity demands a reasonable enhancement.

20. In the result, this Court holds that CrI.R.C.(MD) No.93 of 2025 filed by the husband fails and the same is dismissed. The prayer to adduce additional evidence is rejected.

21. CrI.R.C.(MD) No.945 of 2024 filed by the wife and daughter is partly allowed, and the maintenance awarded by the learned Family Court is enhanced from Rs.8,000/- (Rupees Eight Thousand only) to Rs. 10,000/- (Rupees Ten Thousand only) per month towards the wife (1st petitioner), payable from the date of this order and from Rs.8,000/-

3 (2002) 5 SCC 422

4 (2021) 13 SCC 99



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(Rupees Eight Thousand only) to Rs.10,000/- (Rupees Ten Thousand only) per month towards the daughter (2nd petitioner) payable till her marriage.

22. The respondent shall also pay a lump sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) towards educational and marriage expenses of the daughter within three months from the date of receipt of a copy of this order. Arrears shall be cleared within three months, and future maintenance shall be paid by ECS transfer on or before the 10th day of each succeeding month, with UTR details furnished to the petitioners. Consequently, connected Miscellaneous Petition is closed.

Epilogue:

23. The jurisdiction under Section 125 Cr.P.C., 1973 (now Section 288 BNSS, 2023) is a measure of social justice intended to prevent destitution and vagrancy. Maintenance is not a matter of charity but of right flowing from the marital and filial obligations of the husband and father. The learned Family Court has exercised its evaluative autonomy with due consideration to evidence and statutory principles. Save for the enhancement made herein, the impugned order calls for no interference.



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24. In the result, CrI.R.C.(MD) No.93 of 2025 is dismissed and
CrI.R.C.(MD) No.945 of 2024 is partly allowed.

20.11.2025

NCC : Yes / No
Index : Yes / No
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To

The Family Court, Madurai.



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L.VICTORIA GOWRI, J.,

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