



C.R.P.(MD)No.2264 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.2264 of 2024
and C.M.P.(MD).No.12826 of 2024

Dr.Baskaran ... Petitioner/Appellant/1st Respondent

Vs.

1.B.Sandhiya
2.B.Nidhin
3.B.Dharanidharan ... Respondents/Respondents/Petitioners

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the civil revision petition by setting aside the order of the learned District and Sessions Judge, Theni, dated 16.04.2024 in CrI.M.P.No.1988 of 2023 in Unnumbered C.A in filing No.... of 2024 and allow the same.

For Petitioner : Mr.T.S.Venkat Ramana, Senior Counsel
for Mr.J.Thomas Raja Durai
For Respondents : Mr.C.Ramesh for R1
No Appearance for R2 and R3



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ORDER

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This civil revision petition has been filed to set aside the order of the learned District and Sessions Judge, Theni, dated 16.04.2024 in Crl.M.P.No.1988 of 2023 in Unnumbered C.A in filing No.... of 2024.

2.The facts in brief:

The marriage between the parties was solemnized in the year 2007. Thereafter, they gave birth two male babies. Thereafter, there was misunderstanding between the petitioner and the first respondent. Due to which HMOP proceedings is pending before the Sub Court, Uthamapalayam. In the meantime, the first respondent/wife filed domestic violence case in D.V.C.No.18 of 2022 against the petitioner and his mother. Though the petitioner entered appearance through his Advocate in the above said DVC proceedings, thereafter, he did not appear. Hence, the case was decreed exparte. By knowing the same, the petitioner intend to file criminal appeal. But, there is a delay of 54 days in preferring the appeal. Therefore, he filed Crl.M.P.No.1988 of 2023 to condone the above said delay. But, due to the absence of the petitioner and his counsel, it was dismissed for default. Against which this revision



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has been preferred.

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3.The learned counsel for the petitioner submitted that the reason for the delay is the collusion of his earlier counsel with the first respondent/ wife. His earlier counsel before the trial Court allowed the petition to pass exparte order as well as before the appellate Court also he allowed the above said criminal miscellaneous petition for dismissal. So the above said occurrence is neither willful nor wanton. Hence, he prays to allow this petition.

4.Considering the facts and circumstances of the case and considering the reasons set out by the petitioner in the affidavit, this Court is inclined to allow this petition with the following direction.

5.Accordingly, there shall be a direction to the petitioner to pay a cost of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) to the respondent within a period of one week before the appellate Court. On such payment, the order passed in the CrI.M.P.No.1988 of 2023 on the file of the Principal District Judge, Theni, will stand set aside and the



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delay is condoned. Failing which, the petition shall stand dismissed automatically.

6. With the above said directions, this civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

09.01.2025

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

1. The Principal District Judge, Theni.
2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN,J.

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