

Crl.R.C.(MD)No.281 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.281 of 2025

Naveen Kumar

... Petitioner

Vs.

Nithya

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 & 401 of Cr.P.C, to call for the records relating to the order, dated 15.06.2024 made in Crl.M.P.No.171 of 2024 in M.C.No.8 of 2022 on the file of the Family Court, Ramanathapuram and set aside the same by appreciating the above said fact.

For Petitioner : Mr.R.Niresh Kumar

For Respondent : Mr.R.Karunanidhi

ORDER

The maintenance case in M.C.No.8 of 2022 was filed by the respondent herein before the Family Court, Ramanathapuram on 14.02.2022 seeking a maintenance of Rs.10,000/- from her husband, petitioner herein.

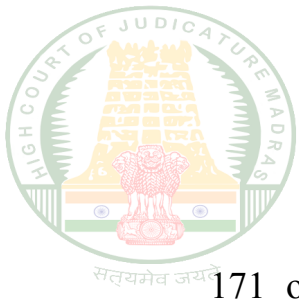


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2. The petitioner is an Oiler in a ship and he had left offshore as early as in the year 2021 itself. While he had been in the offshore for work, M.C.No.8 of 2022 was filed by the respondent wife. The learned Family Judge had set the case ex parte on 28.07.2022. However, in the meanwhile, the petitioner husband had returned to India on 26.07.2022. Since he was unaware of the pending maintenance case, he was not able to appear before the Court and the said maintenance case was set ex parte by an order dated 02.08.2022 by passing an order directing the petitioner husband to pay an amount of Rs.5,000/- as monthly maintenance to the respondent wife.

3. The learned counsel for the respondent wife claimed that on the date of the said order, the respondent wife was pregnant. Later, the petitioner husband has filed an application to set aside the ex parte order in Crl.M.P.No.356 of 2023 along with an application to condone the delay of 174 days to file the said petition in Crl.M.P.No.355 of 2023. However, Crl.M.P.No.355 of 2023 was dismissed for default on 06.06.2023. Thereafter, the husband filed an application in Crl.M.P.No.



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171 of 2024 to condone the delay of 506 days under Section 5 of Limitation Act in setting aside the ex parte order, dated 02.08.2022. The learned Family Judge dismissed Crl.M.P.No.171 of 2024 that the petitioner ought to have restored Crl.M.P.No.355 of 2023 rather than filing a fresh application in Crl.M.P.No.171 of 2024 and dismissed the same. Challenging the same, the petitioner husband is before this Court by way of this revision case.

4. The learned counsel for the respondent wife submitted that by now, the respondent wife has given birth to a girl child and now the child is three years old. The learned Family Judge has passed an order to a monthly maintenance of Rs.5,000/- only, that too for the wife. Now, in the presence of a mother and child, the said amount is very meager for the maintenance of the mother and child. However, I am of the considered view that the petitioner should be given an opportunity of hearing since the matter had been set ex parte by the learned Family Judge.



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5. In view of the same, this Court set aside the order passed by the learned Family Judge in Crl.M.P.No.171 of 2024 and the delay of 506 days in preferring an appeal is condoned. The learned Family Judge, Ramanathapuram is directed to take Crl.M.P.No.356 of 2025 to the file and dispose of the same within a period of two (2) months from the date of receipt of copy of this order. The petitioner had already paid 75% of the arrears amount. The learned counsel for the petitioner also submitted that of the total amount of arrears to a tune of Rs.1,95,0000/- as on today, already the petitioner had paid an amount of Rs.1,38,000/- before the Family Judge's Court, Ramanathapuram. The respondent wife is permitted to withdraw the same and the remaining arrears amount is also directed to be paid by the petitioner before the Trial Court within a period of three (3) weeks from the date of receipt of copy of this order. Till M.C.No.8 of 2022 is disposed of, the petitioner is directed to pay an amount of Rs.5,000/- to the respondent wife without default. In case of default, the restored case will automatically stand dismissed. It is made clear that the respondent wife can make her claim for maintenance towards girl child as well before the Family Court.



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6. In view of the above, this Criminal Revision Case is allowed.

03.06.2025

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

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To

- 1.The Family Court,
Ramanathapuram.
- 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
Crl.R.C.(MD)No.281 of 2025

Dated: 03.06.2025