

Crl.R.C(MD)No.1311 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.01.2025

Pronounced on : 16.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

**Crl.R.C(MD)No.1311 of 2023
and
Crl.M.P(MD)No.16759 of 2023**

Baskaselvan

... Petitioner

Vs.

Amalajothi

... Respondent

PRAYER: This Criminal Revision Case has been filed under Sections 397 r/w 401 of Cr.P.C., to call for the records in Crl.M.P.No.583 of 2023 on the file of the Principal Sessions Judge, Ramanathapuram, Ramanathapuram District, dated 05.10.2023 and to set aside the same by allowing the revision petition.

For Petitioner : Mr.D.Balamurugapandi

For Respondent : Mr.K.Ramanathan



ORDER

WEB COPY

This Criminal Revision Case is filed against the order, dated 05.10.2023 made in Crl.M.P.No.583 of 2023 in Unnumbered Criminal Revision Petition No. /2023 on the file of the Learned Principal Sessions Judge, Ramanthapuram and to set aside the same.

2.The brief facts of the case:

The respondent filed a case in M.C.No.4 of 2018 U/s.125 of the Cr.P.C. before the learned District Munsif-cum-Judicial Magistrate, Thiruvadanai. seeking maintenance of Rs.50,000/- per month from the petitioner. The case was allowed by the trial Court, directing the petitioner to pay Rs.10,000/- p.m. to the respondent from the date of the petition by its order. dated 20.02.2020. The petitioner has preferred the criminal revision petition with a delay of 982 days. So, along with the criminal revision petition, he filed the petition in Crl.M.P.No.583 of 2023 before the Principal Sessions Court, Ramanahapuram, to condone the delay of 982 days. After hearing both side, the learned Principal Sessions Judge, Ramanathapuram dismissed the said delay condonation petition by order, dated 05.10.2023. Challenging the order of dismissal, the revision petitioner has preferred this present Criminal Revision Case.



3. Heard the learned counsel appearing for the petitioner and the learned counsel for the respondent.

WEB COPY

4. The learned counsel appearing for the revision petitioner has submitted that the petitioner has denied the very relationship of the respondent as she is not his wife. The order directing the petitioner to pay maintenance was passed on 20.02.2020 during the Covid-19 pandemic period and the national lockdown was announced. The petitioner moved with a criminal revision petition only after withdrawal of lockdown. The learned Principal Sessions Judge, Ramanathapuram, has not considered the nationwide lockdown and after excluding the pandemic period, there is only 182 days delay. It is settled law by the Hon'ble Supreme Court and the Hon'ble High Courts that while considering the delay condonation petition, there must be a liberal approach and each case has to be disposed of on merits after hearing both. The petitioner has a good case in the maintenance case. Therefore, the Criminal Revision Case may be allowed.

5. The learned counsel for the respondent argued that the respondent filed the maintenance case in the year 2018 as she was not maintained by the petitioner as a dutiful husband. The petitioner entered appearance and filed a counter, later has not contested the case. The trial Court has granted sufficient opportunity for hearing the petitioner, but he was not ready to conduct the case



and so after perusing material records, the trial Court passed the order on 20.02.2020, directing the petitioner to pay the maintenance to the respondent.

As the petitioner has not paid the maintenance amount, the respondent has filed three petitions in Crl.M.P.Nos.3744, 3745 and 3746 of 2024 U/s.128 of Cr.P.C. before the learned Judicial Magistrate, Thiruvadanai and the same are pending. To escape from the said proceedings, the petitioner has filed the criminal revision case after the lapse of three years. The petitioner has not properly explained each and every day of delay. The learned Principal Sessions Judge, Ramanathapuram, has properly appreciated the facts and circumstances and correctly dismissed the delay condonation petition. There is no illegality in the impugned order and therefore, this criminal revision case has no merits and liable to be dismissed.

6. On hearing both sides and on perusal of records, it is clear that the respondent filed a maintenance case in the year 2018 against the petitioner. It is the case of the respondent that she was a divorcee as per the order passed in H.M.O.P.No.71 of 2013 on the file of the Sub Court, Ramanathapuram and the petitioner got married to her on 01.08.2014. It is the further case of the respondent that the petitioner has not maintained her and left her and hence she filed the maintenance case. The petitioner appeared in that case through counsel and filed a counter denying the relationship of the respondent as wife, and he has participated in the proceedings and inspite of several opportunities given to the



petitioner he has not availed those opportunities and hence, order was passed on 20.02.2020, directing him to pay maintenance of Rs.10,000/- p.m. to the respondent.

7. Now, the petitioner contends that he is not the husband of the respondent and during Covid-19 pandemic, the order was passed and he was not able to prefer the criminal revision in time and so, after exclusion of Covid-19 pandemic period, there is only 182 days delay, the revisional Court has not liberally considered the same. At this juncture, it is relevant to refer the Covid-19 pandemic limitation as ordered by the Hon'ble Supreme Court, which is as follows:

The Hon'ble Supreme Court passed in M.A.No.21 of 2022 in M.A.No.665 of 2021 in *Suo Muto* WP(C)No.3 of 2020, dated 10.01.2022 as follows:

"5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A.No.21 of 2022 with the following directions:

1. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed



WEB COPY



CrI.R.C(MD)No.1311 of 2023

that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasijudicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.



As per the above, the Covid -19 pandemic limitation starts from 15.03.2020 and ended with 28.02.2022 and so the limitation from 15.03.2020 to 28.02.2022 has to be excluded and further 90 days from 01.03.2022.

8. On perusal of records and impugned order, in the instant case, the order passed in M.C.No.04 of 2018 on 20.02.2020. The petitioner filed the copy application on 28.07.2022 and received the certified copy of the order on 30.08.2022. Then, the petitioner filed the criminal revision petition along with the delay condonation petition on 27.01.2023. It is a settled provision that each and every days delay has to be explained and each and every case has to be decided upon the facts and circumstances of the case concerned. The law will help the litigant to a proceeding, who is vigilant on the case proceedings. The litigants are always expected to be vigilant over their rights and liabilities, duties and responsibilities and any litigant who slept over their right has to necessarily lose their right on account of the efflux of time. Any litigant who slept over his/her right cannot wake up on fine morning and knock on the doors of the Court for redressal of his/her grievance.

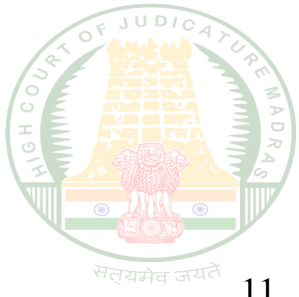
9. It is the practice in case proceedings that the delay caused as if the party was in ailment, however, the same should be established by producing acceptable material. In this case, the petitioner claimed that he was affected by jaundice, but



no material was filed to show on which date he was affected by jaundice and how long he took treatment and where he took treatment and when he recovered.

In the absence of those particulars, the petitioner's case could not be considered as genuine when the respondent specifically argued that the petitioner has filed this petition only to escape from payment of maintenance and further proceeding as she filed three petitions U/s.128 of the Cr.P.C. The subsequent filing of the petitions U/s.128 of the Cr.P.C. was not denied by the petitioner.

10. Therefore, in the above facts and circumstances, I am of the considered opinion that the petitioner has not properly explained each and every days delay, much less, he has not explained the reason what prevented him to proceed further between 20.02.2020 to 15.03.2020 and between 01.03.2022 to 28.07.2022. Moreover, he obtained a certified copy of the order of maintenance on 30.03.2022, but he filed the criminal revision petition only on 27.01.2023. Moreover, the respondent/wife claimed maintenance amount of Rs.50,000/- per month in M.C.No.4 of 2018. Though the petitioner/husband remained ex-parte, the learned District Munsif-cum-Judicial Magistrate, Thiruvadanai, passed orders on merits, directing the petitioner/husband to pay a monthly maintenance of Rs.10,000/- only. Hence, this Court does not find any irregularity or illegality in the impugned order of the learned Principal Sessions Judge, Ramanathapuram. Thus, this Criminal Revision Case fails and the same is liable to be dismissed.



CrI.R.C(MD)No.1311 of 2025

WEB COPY

11. In the result, this Criminal Revision Case is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

16.04.2025

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

To

1. The Principal Sessions Judge,
Ramanathapuram,
Ramanathapuram District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C(MD)No.1311 of 2023

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1311 of 2023
and
Crl.M.P(MD)No.16759 of 2023

16.04.2025