



Crl.R.C.(MD)No.140 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.04.2025

Delivered on : 04.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.140 of 2025

and

Crl.M.P(MD)No.1486 of 2025

R.Alagarsamy

... Petitioner

Vs.

1.M.Logambal

2.Pritamshree

3.Minor.Abinavshree

... Respondents

(cause title amended as per order of the Court, dated 12.02.2025 in
Crl.M.P(MD)No.1802 of 2025 in Crl.RC(MD)No.140 of 2025)

PRAYER : Criminal Revision Petition filed under Section 438 and 442 Cr.P.C., to call for the records relating to the case in Crl.M.P.No.388 of 2022 in M.C.No.23 of 2020, dated 15.05.2024 only in respect of the order directing the petitioner to pay the entire education expenses of the second and third respondents till the completion of their graduation, on the file of the Family Court, Madurai and set aside the same as illegal.



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WEB COPY For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.C.Vakeeswaran, for R1 & R2.

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.388 of 2022 in M.C.No.23 of 2020, dated 15.05.2024 on the file of the Family Court, Madurai, granting interim maintenance to the respondents 2 and 3.

2. It is not in dispute that the marriage between the petitioner and the first respondent was solemnized on 04.04.2004 and due to their wed-lock, they were blessed with two male children/respondents 2 and 3, who were born on 09.03.2005 and 19.08.2011 respectively. As usual in matrimonial proceedings, the revision petitioner/husband and the first respondent/wife have raised allegations and counter allegations against each other.

3.It is not in dispute that the revision petitioner has filed a petition in H.M.O.P.No.1107 of 2019 against the first respondent seeking restitution of conjugal rights and the same is pending on the file of the Family Court,



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Madurai. It is also not in dispute that the revision petitioner has also filed a petition in G.W.O.P.No.1258 of 2019, seeking custody of his minor children/ respondents 2 and 3 and the same is pending on the file of the Family Court, Madurai. It is also not in dispute that the first respondent has initiated proceedings under the Domestic Violence Act in D.V.C.No.21 of 2021 before the Additional Mahila Court, Madurai and that thereafter, the said petition came to be dismissed.

4. It is also not in dispute that the first respondent has laid maintenance claim for herself and on behalf of her minor sons in M.C.No.23 of 2020 and the same is pending on the file of the Family Court, Madurai. Pending enquiry in the maintenance claim, the first respondent has filed an application seeking interim maintenance for herself and for her minor sons in Crl.M.P.No.388 of 2022.

5. The first respondent's primary contention is that the petitioner and his parents subjected her to cruelty from the outset of her marriage. She alleges that she was forced out of the matrimonial home on 04.07.2016, and has since been residing with her parents along with her children. The first

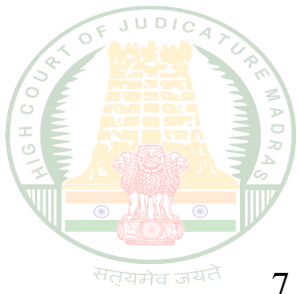


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respondent further claims that the petitioner has not provided any financial support, despite being a retired naval engineer with a monthly pension of Rs. 35,000. Additionally, she states that the petitioner earns a monthly salary of Rs. 59,621 from his job at the State Bank of India and receives Rs. 16,000 in rent from his own house, making him obligated to maintain her and their minor children, including covering educational expenses.

6.The revision petitioner has filed a detailed counter affidavit, disputing the first respondent's allegations. He claims to have purchased two plots in the first respondent's name and land in joint names, and gave Rs. 59,76,200 to the first respondent for construction. He also alleges that the first respondent's father failed to provide account details. Additionally, the petitioner asserts that he gifted jewelry and a TVS Scooty to the first respondent. He states his total income is Rs.77,576, with monthly expenses of Rs. 66,125, and expresses willingness to pay Rs. 5,000 per child as monthly maintenance. Furthermore, he highlights that his children were admitted to Kendriya Vidyalaya, Narimedu, due to his employment in the Indian Navy, and that he has covered their educational expenses.

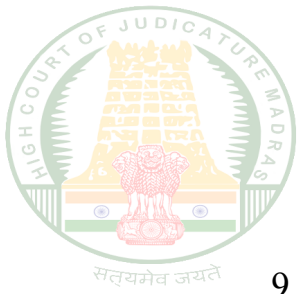


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7. The first respondent for herself and for her minor sons claimed monthly maintenance at Rs.40,000/- for the first respondent and Rs.20,000/- each for the respondents 2 and 3 and that in the interim maintenance petition also she has claimed the same amount. The learned Judge of the Family Court, after enquiry, has passed the impugned order, dated 15.05.2024, dismissing the petition as against the first respondent and granting interim maintenance at Rs.5,000/- per month to the third respondent from the date of petition till the disposal of the maintenance case and also directed the petitioner to pay the entire educational expenses of the respondents 2 and 3 till the completion of their graduation and also directed to pay the above interim maintenance to the first respondent's bank account through ECS.

8. The learned counsel for the petitioner would submit that though the petitioner has filed the revision challenging the impugned order passed in Crl.M.P.No.388 of 2022, he challenged the order of the Family Court, directing the petitioner to pay the entire educational expenses for the second respondent, who has already attained majority.

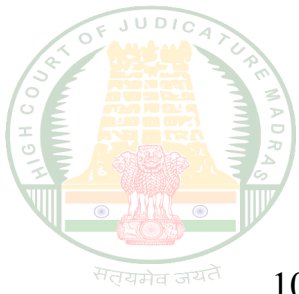


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9. The learned counsel for the petitioner would submit that an application under Section 125 of Cr.P.C., for granting of maintenance is maintainable so far as the children are concerned, till they had not attained majority and would rely on a decision of Hon'ble Supreme Court in ***Amarendra Kumar Paul Vs. Maya Paul and others*** reported in **2009 (3) SCC (Cri) 868**, wherein the Hon'ble Apex Court has held that once children attained majority, the provision under Section 125 of Cr.P.C., would cease to apply and no order of maintenance can be passed in favour of the children after they attained majority and the relevant passage is extracted hereunder :

“18. It is clear from the order of the learned Magistrate that no order of maintenance was passed in favour of the children after they attained majority. In that view of the matter, the question of recovery of any amount from the petitioners towards the maintenance granted to the children after they had attained majority does not arise. In this case the direction has been issued to recover the amount of maintenance only for the period prior to the sons' attaining majority and the daughters getting married and hence no inference with the impugned judgment, in this behalf, is called for.”



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10. No doubt, the Full Bench of Hon'ble Supreme Court in ***Abhilasha Vs. Parkash and others*** reported in (2020) 4 MLJ (Crl) 95 (SC), has settled the legal position that an unmarried Hindu daughter can claim maintenance from her father till she is married, relying on Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956, provided she pleads and proves that she is unable to maintain herself, for enforcement of which right her application/suit has to be under Section 20 of Act, 1956.

11.The learned counsel for the respondents would rely on a decision of the Delhi High Court in the case of ***Urvashi Aggarwal and others vs. Inderpaul Aggarwal*** reported in 2021 SCC Online Del 4641, wherein the learned Judge of Delhi High Court has held that a father cannot be absolved of all responsibilities to meet the education expenses of his son because the son may have attained the age of majority, but may not be financially independent and could be incapable of sustaining himself and the relevant passages are extracted hereunder :

“ 11. The Supreme Court and other High Courts have, in a slew of judgements, in view of the facts and circumstances of the case placed before them, upheld the maintenance allowance granted to a son post attaining majority on the ground that the



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father has a duty to finance basic education of the child and that the child cannot be deprived of his right to be educated due to his parents getting divorced. In Chandrashekhar v. Swapnil and Anr., Criminal Appeal Nos. 265-266 of 2021, the Supreme Court had upheld the arrangement to provide maintenance to the son until he completed his first degree course after high school so as to ensure that he becomes a self- supporting individual and can live in dignity. In Rita Dutta and Anr. v. Subhendu Dutta, (2005) 6 SCC 619, the Supreme Court had maintained the allowance which had been granted to the elder son who had attained majority.

12. In Jayvardhan Sinh Chapotkat v. Ajayveer Chapotkat, Civil Writ Petition No. 2117 of 2012, while allowing a writ petition on the question as to whether maintenance could be paid to the son by the father even after attainment of majority, the Bombay High Court had held as follows:

"16. A major son may not be entitled for maintenance under the Hindu Marriage Act. In the present case, the Petitioner has made out a specific claim for educational expenses which can be availed by him after attaining the age of 18 years. The son/claimant would attain majority as far as age is concerned, however, it would not be the proper age for becoming economically independent so as to earn his living. In the given facts of the case, a major son

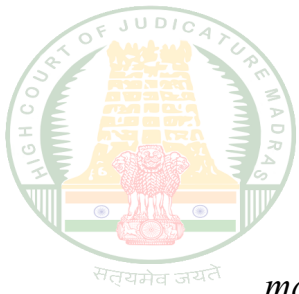


of a the well- educated and economically sound parents can claim educational expenses from his father or mother irrespective of the fact that he has attained majority. It is not maintenance in strict senses as contemplated under Section 125 the Code of Criminal Procedure or maintenance as contemplated under Section 20 under Hindu Marriage Act".

.....

13. The Madras High Court, in T. Vimala v. S. Ramakrishnan, Crl. R.C. (MD) No. 180 of 2014, while noting that daughters could be maintained after attaining majority as a result of Section 20 of the Hindu Marriage Act, had emphasised on how the law, i.e. Section 125 of the Code, had to be interpreted liberally as well as the obligation of a father to meet educational expenses of his children. It had observed as follows:

"18. The very purpose of Section 125 Cr.P.C. is also to protect the children from want of roof, food, clothing and necessities of life. Education is an important aspect in children's life. Amounts need to be spent for it. Those expenses are educational expenses. Every father is bound to provide a good education to his children. No father is expected to produce a criminal or a disorderly person. Thus, he has to bear the educational expenses of his children. Children have to maintain their education by meeting the educational expenses. Even a



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man on the pavement will be dreaming of his children becoming a qualified person in life. Therefore, the obligation of a father to maintain, to meet the educational expenses of his children cannot be excluded for the component of maintenance. Section 125 Cr.P.C. is not only for food for life, it should also be for food for thought. Otherwise, so far as the children are concerned, we will be doing violence to the very object of Section 125 Cr.P.C."

.....

21. The context of Section 125 Cr.P.C. is to ensure that the wife and the children of the husband are not left in a state of destitution after the divorce. The husband must also carry the financial burden of making certain that his children are capable of attaining a position in society wherein they can sufficiently maintain themselves. The mother cannot be burdened with the entire expenditure on the education of her son just because he has completed 18 years of age, and the father cannot be absolved of all responsibilities to meet the education expenses of his son because the son may have attained the age of majority, but may not be financially independent and could be incapable of sustaining himself. A father is bound to compensate the wife who, after spending on children, may hardly be left with anything to maintain herself.



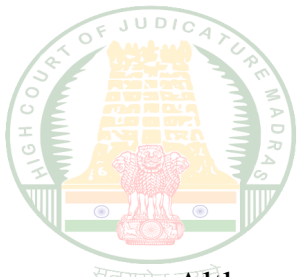
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12. It is necessary to refer the following passages in the case of **Zahir Abdullah and another Vs. Omar Abdullah** reported in **2023 SCC Online Del 5341** and the relevant passage is extracted hereunder :

“ 29. This Court finds weight in the submission of the learned Counsel for the Petitioners that the language of Section 125 Cr.P.C. was not meant to oust the duty of the father to provide for his son. Keeping in mind the purpose and intent of the provision in question, along with the growing importance of obtaining higher undergraduate education for the purpose of securing employment, the father is legally and morally bound to ensure that his children, even if it is a major son. The Court also is inclined to agree with the argument of the learned Counsel for the Petitioners that the wife and the children must not be put in a position where they are deprived of the lifestyle and the comfort that they previously enjoyed. Even if the wife has sufficient financial means to sustain herself, the husband cannot wash his hands off the responsibilities that are bestowed upon him when it comes to the upbringing of his children.”

13. Courts cannot overlook the reality that attaining majority does not necessarily mean a young adult is financially independent. Typically, at 18 years old, a son is likely completing secondary education or starting college.



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Although a major son may not be entitled to maintenance per se, he certainly has a legitimate claim to educational expenses from his father.

14. Viewing from another angle, notably, Section 144 of the BNSS, which replaces Section 125 of the CrPC, introduces a major shift in maintenance law. By omitting the word 'minor,' the provision now extends the right to maintenance to adult children who are unable to support themselves. This expansion is significant, as previously only minor children could claim maintenance. Now, a child who has attained majority can also claim maintenance from their father if they are unable to maintain themselves. The legislature's omission of the word 'minor' in Section 144(1)(b) of the BNSS allows legitimate or illegitimate children, regardless of age, to approach the courts for maintenance if they are unable to support themselves, subject to the father's refusal or neglect to maintain despite having sufficient means.

15. A crucial question arises regarding the applicability of Section 144 to cases filed before 01.07.2024. The Hon'ble Supreme Court's recent decision in 'In Re- Inhuman Conditions in 1382 Prisons' [Writ Petition (Civil)



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No. 406/2013] is relevant, where it granted retrospective effect to Section 479 of the BNSS, a provision more beneficial to under trial prisoners. Given that Section 144 of the BNSS is a welfare provision, similar to Section 479, this Court finds it appropriate to give retrospective effect to Section 144 of BNSS as well.

16. In light of this, the impugned order directing the revision petitioner to pay educational expenses to the second respondent until his graduation cannot be found fault with. Consequently, this Court concludes that the Criminal Revision is devoid of merits and the same is liable to be dismissed.

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

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NCC : Yes / No
Index : Yes / No
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