

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION NO: 7073 OF 2025

Between:

Middela Sainath,, S/o. Late Shankar, Aged about 39 years, Occ.Office Boy,
R/o.H.No.1-6-212/65/107/98, Gangaputra Colony, Musheerabad, Hyderabad.

...Petitioner/Petitioner in

Crl.Mp. No.49 of 2025 in MC. No. 15 of 2019

AND

1. The State of Telangana, Rep by its Public prosecutor, High Court At Hyderabad.

....Respondent No.1

2. Middela Laxmi @ Baggali Vani, W/o.Middela Sainath, D/o.Baggali sailoo, Aged about 36 Years, Occ.Household, R/o.H.No.3-9-545/2, Gayathrinagar, Nizamabad, Nizamabad District.
3. Guna Shanker,, S/o.Middela Sainath, Aged about 9 years, Occ.Student, Being minor represented by natural mother, Middela Laxmi @ Baggali Vani, W/o.Middela Sainath, D/o.Bagali Sailoo, Aged about 32 years, Occ.Household, R/o.H.No.3-9-545/2, Gayathrinagar, Nizamabad, Nizamabad District.

...Respondent Nos. 2 & 3/Respondents in

Crl.Mp. No.49 of 2025 in MC. No. 15 of 2019

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the conditional order that subject to payment of 40 % of arrears of maintenance on or before 06-06-2025, in pursuant to the Order dated 03-05-2025 passed in Crl.MP.No.49 of 2025 in MC.No.15 of 2019 from the file of the Judge Family Court cum-III, Additional District and Sessions Judge at Nizamabad, and set aside the same, in the interest of justice.

I.A. NO: 1 OF 2025

Petition under Section 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to grant stay the condition that the petitioner subject to payment of 40 % of arrears of maintenance, in pursuant to the order dated 03-05-2025 passed in CrI.MP.No.49/2025 in MC No. 15/2019 by the Judge Family Court cum III Additional District and Sessions Judge at Nizamabad, pending disposal of the Criminal Revision Case.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri HARI KISHAN KUDIKALA, Advocate for the Petitioner and Sri. JITHENDER RAO VEERAMALLA, the Additional Public Prosecutor for the State of Telangana on behalf of the Respondent No.1 and None appeared for the Respondent No. 2 and 3.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No.7073 OF 2025

ORDER

This Criminal Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS, 2023') seeking quashment of the order dated 03.05.2025 in CrI.M.P.No.49 of 2025 in M.C.No.15 of 2019 on the file of the Judge, Family Court-cum-III Additional District and Sessions Judge, Nizamabad.

2. I have heard Mr. Hari Kishan Kudikala, learned counsel for the petitioner and Mr.Jithender Veeramalla, learned Additional Public Prosecutor, representing the respondent No.1-State.

3. Briefly stated, the relevant facts of the case are as follows:
The petitioner is the respondent in M.C. No. 15 of 2019, which was adjudicated on 02.03.2021. In that proceeding, the Court awarded monthly maintenance of Rs.7,000/- to respondent No.2 (petitioner No.1 in the maintenance case) and Rs.5,000/- to respondent No.3 (petitioner No.2), totalling Rs.12,000/-. The maintenance was directed to be paid from the date of the petition, with the payments to be made directly to the account of respondent No.2 by the 5th of every succeeding month,

Additionally, the Court ordered that arrears of maintenance be cleared within three months from the date of the order.

4. Subsequently, the petitioner filed an application under Section 126(2) of the Criminal Procedure Code, seeking to set aside the maintenance order dated 02.03.2021 in M.C. No. 15 of 2019. Upon considering the submissions of the parties, the Court allowed the application, subject to the condition that the petitioner must deposit 40% of the outstanding maintenance arrears on or before 06.06.2025. The Court further directed the petitioner to file a counter in the main M.C. proceeding, clarifying that failure to comply with this condition would render the order ineffective.

5. Aggrieved by the direction requiring the deposit of 40% of the arrears, the petitioner has preferred the present petition, contesting the legality and propriety of such a conditional order.

6. Learned counsel for the petitioner contended that the direction to deposit 40% of the maintenance arrears is unduly burdensome and oppressive. It was further submitted that the trial Court failed to adequately consider the petitioner's plea that he had been making regular payments to the respondents towards maintenance. Additionally, it was argued that the petitioner had

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provided his credit card to respondent No.2 specifically for the purpose of meeting her maintenance needs.

7. In light of these circumstances, counsel submitted that the trial Court ought to have set aside the impugned maintenance order in its entirety and directed a fresh adjudication of the main M.C., without imposing any condition for the deposit of arrears.

8. I have perused the materials on record and considered the submissions.

9. The Maintenance Case originates from the year 2019, with the maintenance order having been passed in March 2021. The petitioner contends that the said order was passed *ex parte*.

10. Upon consideration of the merits of the present petition, it is the petitioner's prayer that the maintenance order be set aside and the matter be revived for fresh adjudication. Significantly, the present petition seeking to set aside the maintenance order has been filed only in the year 2025, after a substantial lapse of time.

11. Pertinently, the petitioner asserts that he had made certain payments to the respondents towards both current maintenance and arrears. However, he remained inactive and took no steps to challenge the order from the date it was passed until the filing of the present petition. Furthermore, it is an admitted fact that the

respondents have initiated execution proceedings for recovery of the unpaid maintenance arrears, and the said execution petition is pending. The petitioner has submitted that he is contesting the said proceedings by filing an appropriate counter, asserting that payments were indeed made. This factual matrix reinforces the inference that the petitioner had, at least tacitly, accepted the subsistence and binding nature of the maintenance order.

12. Be that as it may, the inordinate delay of four years in seeking to set aside the order, particularly in the context of pending execution proceedings, cannot be ignored. Granting relief at this belated stage, solely on the basis of unsubstantiated pleas, would result in grave prejudice to respondents Nos.2 and 3, who have been pursuing enforcement of their legally awarded maintenance.

13. In view of the above peculiar circumstances, this Court finds no legal impropriety or infirmity in the order directing the petitioner to deposit 40% of the arrears as a precondition. In the absence of any substantial or tenable grounds warranting interference, this Court is of the considered opinion that the petitioner has failed to make out even a prima facie case for admission of the petition.

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14. Resultantly, the criminal petition is dismissed.

Pending miscellaneous applications, if any, shall stand closed.

Sd/- T. JAYASREE
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

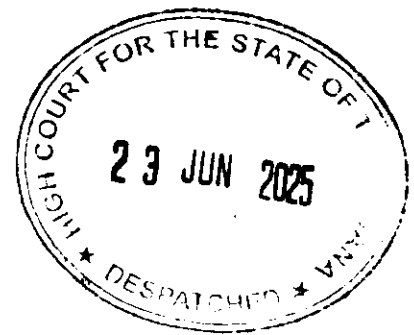
- To,
1. The Family Court cum III Additional District and Sessions Judge at Nizamabad.
 2. One CC to Sri. Hari Kishan Kudikala, Advocate [OPUC]
 3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
 4. Two CD Copies
- GR/PSL

HIGH COURT

DATED:16/06/2025

ORDER

CRLP.No.7073 of 2025



DISMISSING THE CRIMINAL PETITION

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23/6/25
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