



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 15.04.2026

PRONOUNCED ON 01-06-2026

CORAM

THE HON'BLE MRS.JUSTICE N. MALA

CRP No. 565 of 2026

AND

CMP NO. 3080 OF 2026

Ashwini K.P
Jayanagar Extension,
Vishwamanava Road,
K.R Pet Town and Taluk,
Mandya District,
Karnataka.

..Petitioner(s)

Vs

Raja Ardher Paul J.M
No 5/26, New Street,
Thathakuppam,
Villivakkam,
Chennai 600 049

..Respondent(s)

CMP No. 3080 of 2026

Ashwini K.P
Jayanagar Extension,
Vishwamanava Road,
K.R Pet Town and Taluk,
Mandya District,
Karnataka.

..Appellant(s)

Vs

Raja Ardher Paul J.M
No 5/26, New Street,
Thathakuppam,
Villivakkam,
Chennai 600 049

..Respondent(s)

**CRP No. 565 of 2026**

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decreetal order dated 02.01.2026 passed in Tr.OP.No.4645 of 2025 by the Honble Principal Family Court at Chennai by allowing the above Civil Revision Petition.

CMP No. 3080 of 2026

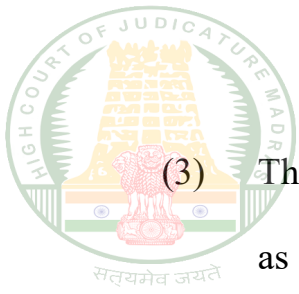
To stay all further proceedings in H.M.O.P.No.1579 of 2023 pending on the file of the learned V Additional Judge, Family Court, Chennai, pending disposal of the present Civil Revision Petition and thus render justice.

CRP No. 565 of 2026

For Petitioner(s): M/s. E. Prabu
For Respondent(s): M/s.S.Sandhya
For Sole Respondent

Order

- (1) The petition is filed by the petitioner challenging the order dismissing the petitioner's petition filed under Section 21[1] of the Hindu Marriage Act read with Section 24 of CPC, for transfer of OP.No.1579/2023, pending on the file of the learned V Additional Judge, Family Court, Chennai, to any other Family Court at Chennai.
- (2) For the sake of brevity, the parties are referred to as petitioner and respondent.



(3) The facts leading to the above Civil Revision Petition can be summarised as follows:

(4) The petitioner's marriage was solemnised with the respondent on 29.08.2016, as per the Hindu rites and customs. Because of matrimonial discord, the respondent filed OP.No.1579/2023 before the V Additional Family Court, Chennai, for divorce. The petitioner states that she faced hurdles before the Family Court, which failed to even number her interim maintenance petition and the statement of assets and liabilities, filed by her as early as in September, 2024. The petitioner further states that the failure of the learned Judge in failing to number her maintenance application, passing orders in her counsel's absence and refusing to acknowledge the petition filed by her counsel under Section 13 along with Vakalat, created apprehension in her mind that the trial before the learned Judge would not be conducted in a fair and impartial manner. The petitioner, under the circumstances, filed the Transfer OP in OP.No.4645/2025, before the Principal Family Court, at Chennai, for transfer of the OP from the file of the V Additional Family Court, Chennai, to any other Family Court, at Chennai. The learned District Judge, dismissed the Transfer OP and therefore, aggrieved by such dismissal, the petitioner filed the above CRP for the aforesaid relief.

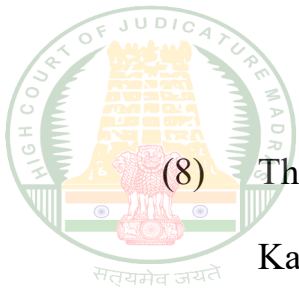
(5) The respondent/husband filed a detailed counter denying the petitioner's allegations, apart from stating that the allegations levelled by the



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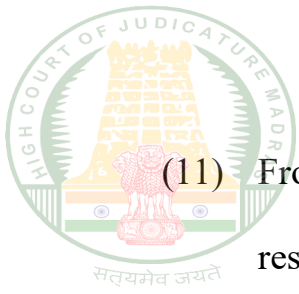
petitioner were clearly an afterthought and in retaliation to the judicial orders that were passed by the Court in strict compliance with the procedural laws and in the interest of justice. According to the respondent, the orders were passed by the Court only because of the petitioner's repeated failure to adhere to the timelines fixed by the Court. The respondent contends that the apprehension and the allegation of bias of the petitioner were not genuine, but were speculative, frivolous and malicious. The respondent contends that no material was placed before the Court to prove the *bona fide* and reasonable apprehension of bias of the petitioner. On the factual allegation that the application of the petitioner for maintenance was kept pending since 2024, the respondent contends that in the absence of any record to show that the petition was unreasonably kept pending, the said allegation deserved to be rejected. The respondent, referring to the chronological events of the case, contends that the allegation of bias is unfounded and untenable. The respondent therefore contends that the petition is devoid of merits and is resorted to, to stall the main divorce proceedings.

- (6) Both the learned counsels reiterated the contentions raised by them in the affidavit and in the counter affidavit.
- (7) Both the learned counsels relied on a few judgments in support of their case.



(8) The learned counsel for the petitioner relied on the judgment of the Karnataka High Court reported in *AIR 2003 Kar 39 : 2002 SCC OnLine Kar 265 [M.V.Ganesh Prasad Vs. M.L.Vasudevamurthy and Others]* and the order of this Court dated 23.08.2021 made in *Tr.CMP. [MD].No.307/2021 [The Tamil Evangelical Lutheran Church rep.by its Secretary A.Mehar Antony and Others Vs. Rt.Rev.D.Daniel Jayaraj]* and the learned counsel for the respondent relied on the judgment of the Delhi High Court reported in *2022 SCC OnLine Del 1996 : 2022 [291] DLT250 [Kinri Dhir Vs. Veer Singh]* and the judgment of this Court reported in *2018 SCC OnLine Mad 1459 : 2017 [4] CTC 160 [A.Savitha Ujwala and Another Vs. M.R.Venkatagiri]*, in support of his case.

- (9) Heard both sides and perused the materials placed on record.
- (10) The petitioner has filed the present civil revision petition primarily on the ground that the manner in which the learned Judge was conducting the case, raised a reasonable apprehension in her mind that an opinion has been hastily formed even before the conclusion of the proceedings. In support of her apprehension, the petitioner states that though she filed her application for interim maintenance as early as in September 2024, along with the statement of assets and liabilities, the same was kept pending, at the numbering stage without any progress, whereas the petition filed by the respondent for marking of additional documents, was allowed.



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(11) From the adjudication history filed by the learned counsel for the respondent/husband, with reference to IA.No.5/2025, for receiving additional document, it is seen that the IA was posted on 20.05.2025 and the same was adjourned for counter of the petitioner herein, to 27.06.2025. On 27.06.2025, the petitioner remained absent and so the IA was allowed. When the witness was called for marking of the documents, the counsel representing the petitioner, questioned the Court in admitting the additional documents. The Court took strong objections to the conduct of the petitioner's counsel, in questioning the Court, without resorting to the procedure of filing an application under Section 13 of the Family Courts Act. The Court, also recorded its objections. In the absence of counter by the petitioner, the Court allowed IA.No.5/2025, and ordered the documents to be received, subject to proof of relevance and admissibility. Thereafter, on 24.07.2025, the petitioner again remained absent, but the respondent was present. The Court recorded the petitioner's Section 13 application along with the Memo and also recorded the return of the Memo. The matter was thereafter taken up for hearing on 19.08.2025, however, the petitioner remained absent. Thereafter, the matter was taken up on 08.09.2025. The respondent was present, but the petitioner was not ready and therefore, once again the matter was adjourned to 29.09.2025, for cross of PW1.

(12) On 29.09.2025, the petitioner filed a Memo stating that the Transfer OP



was filed and thereafter, the matter was adjourned for production of the stay order in the Transfer OP, to 07.11.2025, 28.11.2025 and 04.12.2025.

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On 04.12.2025, the petitioner was set exparte and PW1's cross was closed. On 24.12.2025, both the respondent as well as the petitioner were absent and hence, the matter was adjourned to 19.01.2026. On 19.01.2026, the respondent was present and the petitioner was absent. The Court recorded that the Transfer OP was dismissed and CRP was contemplated. Meanwhile, the petitioner filed an application under Section 151 of CPC and under Order 9 Rule 7 of CPC. The set aside application was adjourned to 09.02.2026 for counter of the respondent.

- (13) From the aforesaid adjudication history, it is clear that the Court had given ample opportunity to the petitioner herein, to contest IA.No.5/2025, but despite repeated opportunities, the petitioner failed to cooperate. In the factual matrix of the case, the learned Judge found that the petitioner's allegation that she apprehended that justice would not be rendered, was not *bona fide*. The learned Judge further found that the petitioner's allegations were based on the judicial orders passed against her due to her own lapses and that such perception could not be considered as reasonable apprehension in the eye of law. This Court finds that the aforesaid adjudication history of the case justifies the findings of the learned Judge that the petitioner's allegations stem out of judicial orders passed against her due to her own lapses. In my



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considered view, a transfer order on mere allegations of apprehension unsupported by materials to substantiate the same, cannot be passed. The apprehension should be bona fide and based on some substantial material.

- (14) I am fortified in my view by the judgement of the Hon'ble Supreme Court in ***Vijay Pal and Another Vs. State of Haryana and Others [1999 [9] SCC 67]***, the Hon'ble Supreme Court held that, in the absence of justified reasons, it is not proper and legal to transfer cases. So also, a learned Single Judge of this Court in Tr.CMP.[MD].No.307/2021, dated 23.08.2021 [referred to above], held in paragraph No.11 as follows:-

“11.Mere allegations like substantial prejudice, non availability of congenial atmosphere for a free trial cannot be held the sole ground of transfer. Mere apprehension is not enough unless it is supported with some material. A party, either complainant or the accused should not ordinarily be allowed to have the Forum of his/her own choice. A transfer applicant cannot be allowed to make unfounded charges. A transfer should not be granted on a fancied notion of a litigant. Where the ground for transfer is not substantiated and as such does not exist, the application for transfer should not be allowed. It should not be allowed to help a litigant to choose a Bench of his own choice.”

- (15) This Court is of the view that mere fact that the petitioner's application for interim maintenance is kept pending will not lead to a presumption



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that the learned Judge is biased. It is well settled legal position that the allegations of bias must be clear, categorical and substantiated by circumstances. On mere allegations, suspicion and fanciful notions of bias, transfer cannot be granted. It is trite in law that apprehension of the person should be real and reasonable and not illusory or imaginary.

- (16) It is true that every litigant is entitled to fair and impartial justice and that the Courts should conduct proceedings in a manner that inspires confidence in the minds of the litigants and upholds the dignity and credibility of the justice delivery system. At the same time, such confidence cannot be misconstrued as conferring a license upon the parties to level reckless or unfounded allegations against judicial officers or to seek adjudication before a Forum of their own choice.
- (17) Under the facts and circumstances of this case, this Court finds no merit in the Civil Revision Petition and the same is **dismissed**. However, since the petitioner has specifically stated that her maintenance petition was filed in September, 2024, and it is yet to be numbered, this Court directs the Family Court to number the interim maintenance petition and dispose of the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

01-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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CRP No. 565 of 2



N.MALA J.

AP

To

1.The Principal Judge
Family Court, Chennai.

**Order in
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