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C.R.P. No.1397 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-03-2026

CORAM

THE HONOURABLE MR. JUSTICE N. MALA

C.R.P.No.1397 of 2026

Prakash

... Petitioner

Vs

Jayalakshmi

... Respondent

PRAYER : Civil Revision Petition filed under Section 115 of CPC., to call for the record set aside the decretal and fair order dated 23.10.2025, passed in IA.No.2 of 2024 in HMOP.No.214 of 2001 on the file of the Principal Subordinate Judge, Chengalpattu, allowing this Civil Revision Petition.

For Petitioner : M/s.N.Alamelu Mangai

ORDER

This Civil Revision Petition is filed against the order dated 23.10.2025 passed in I.A.No.2 of 2024 in HMOP.No.214 of 2001, on the file of the Principal Subordinate Judge, Chengalpattu, dismissing the application to condone the delay of 7325 days in seeking to set aside the exparte decree dated 16.09.2004.



2. The petitioner filed a divorce petition against the respondent under Section 13 I (i-a) and (i-b) of the Hindu Marriage Act, 1955. The HMOP was originally filed before the Subordinate Court, Poonamallee, and was numbered as HMOP.No.61 of 2001. The same was pending before the Subordinate Court, Poonamallee, from 09.04.2001 to 16.09.2001 and thereafter, it was transferred to the Principal Subordinate Court, Chengalpattu on 08.11.2001 and renumbered as HMOP.No.214 of 2001. Notice was sent to both the parties, but, there was no representation for both the parties. Thereafter, the Court passed the order dismissing the petition on 16.09.2004. The petitioner states that he had no knowledge of the stage of the above case and that the petitioner's previous counsel did not monitor the case pursuant to its transfer from Sub Court, Poonamallee to Principal Subordinate Court, Chengalpattu.

3. The petitioner states that, meanwhile, the respondent filed a Maintenance Case against the petitioner which caused him great mental stress. The petitioner states that thereafter, he changed his counsel and since he forgot the HMOP number, he could not convey to the new counsel the details of the HMOP case earlier filed. Hence, the new counsel filed a fresh divorce petition in HMOP.No.300 of 2013. Since HMOP.No.300 of 2013 was filed on the very same cause of action and for the same prayer as in HMOP.No.214 of 2001, it was dismissed on 05.04.2021. After the dismissal of HMOP.No.300 of 2013 on



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05.04.2021, the petitioner filed the Interlocutory Application in IA.No.2 of 2024 to condone the delay of 7325 days in seeking to set aside the dismissal order passed in HMOP.No.214 of 2001.

4. The trial Court based on the aforesaid averments made in the petition, dismissed the same on the ground that the reasons assigned by the petitioner such as loss of case bundle, change of counsel and mental stress were vague and not sufficient to condone the huge delay. The trial Court also found that the petitioner was aware of the earlier proceeding, but for his own reasons he did not take any steps to restore the same. The trial Court hence dismissed the condone delay application as meritless.

5. The facts of the case are undisputed. Suffice it to state that the petitioner earlier filed HMOP.No.214 of 2001 for divorce and it was transferred from Sub-Court, Poonamallee to Principal Subordinate Court, Chengalpattu. According to the petitioner, his erstwhile counsel failed to monitor the case properly pursuant to its transfer from Sub-Court, Poonamallee. The petitioner further contended that he was stressed because of the maintenance petition filed by the respondent against him. The petitioner contends that for want of particulars of HMOP.No.214 of 2001, he was constrained to file fresh HMOP.No.300 of 2013, through a new Counsel.



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6. It is an admitted fact that the petitioner received notice from the Sub-Court, Poonamalle, in HMOP.No.214 of 2001, on its transfer to its file. The contention of the respondent that the petitioner contested HMOP.No.214 of 2001, by engaging three counsels, all residing in the same area as that of the petitioner and one of them from the very same Tambaram Railway Colony is not denied by the petitioner. Under the circumstances, the petitioner's contention that he was not informed of the proceedings by his previous counsel cannot be accepted. It is difficult to believe that from 16.09.2004, till he filed the 2nd divorce petition, the petitioner did not interact with his counsel. No prudent litigant would remain supine for a period of 10 years without making any effort to follow up the proceedings, especially when his counsel was practising in the same locality. Even assuming that the petitioner did not meet his counsel, such omission by itself would demonstrate lack of due diligence on his part; the conduct exhibited clearly reflects supine indifference and negligence.

7. This Court finds that the explanation offered to condone the astronomical delay of 7325 days is insufficient and untenable and therefore this Court finds no infirmity or illegality in the trial Courts order. Notwithstanding, the submission of the learned counsel for the petitioner that the delay be



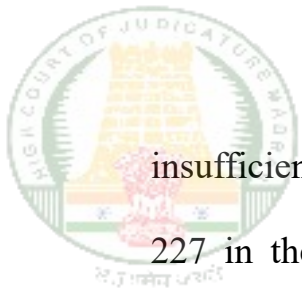
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condoned an equitable considerations and in the interest of justice, this Court finds that acceding to such a request would place a premium on the petitioner's unexplained and extraordinary delay of 7325 days. The inordinate delay of 7325 days is also a relevant fact.

8. The Hon'ble Supreme Court in the case of *H.Guruswamy Vs. A.Krishnaiah (since deceased) in CA.No.317 of 2025 dated 08.01.2025*, in paras 15 & 16 held, "the rules of act are not meant to destroy the rights of parties. They are meant to see that the parties do not resort to dilatory tactics but seek their remedy promptly. The length of delay is also a relevant matter, which the Court must take into consideration while considering whether the delay should be condoned or not."

9. So also in *Basawaraj & Anr Vs. Spl.Laq Officer* reported in *2013(14)SCC 81*, the Hon'ble Supreme Court held that when there was no justified ground for condoning the delay and the party had not acted diligently or remained inactive, there would be no justification to condone the delay by imposing any condition whatsoever.

10. The trial Court having rightly found that the reasons assigned by the petitioner to condone the inordinate delay of 7325 days, were vague and



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insufficient to condone the huge delay, this Court exercising power under Article 227 in the absence of any perversity, would be loathe to interfere with such discretion.

11. Under the facts and circumstances of the case and the binding law laid down by the Hon'ble Supreme Court, this Court finds no merit in the Civil Revision Petition and hence, the same is dismissed. No costs.

13.03.2026

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

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To

1. The Principal Subordinate Court, Chengalpattu.

2. The Sub Court, Poonamallee.



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N. MALA, J.

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