



WEB COPY

CRL RC No. 408 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 408 of 2026

and

CRL MP No. 3148 of 2026

L.Venkatesan
Son of Loganathan Naidu,
Rallkothur Village,
Mittalam Post, Ambur Taluk,
Thirupathur District.

..Petitioner(s)

Vs

1. R.Madhu
Wife of L.Venkatesan,
No.62, Sathambakkam Village and Post,
Ambur Taluk,
Thirupathur District.
2. Minor Sumitha
Daughter of L.Venkatesan,
No.62, Sathambakkam Village and Post,
Ambur Taluk,
Thirupathur District.
3. Minor Tharun
Son of L.Venkatesan,
Petitioners 2 and 3 are minors,
Represented by their mother,
Natural Guardian R.Madhu,
No.62, Sathambakkam Village and post,
Ambur Taluk,
Thirupathur District.

..Respondent(s)

Criminal Revision Petition filed under Section 438 r/w 442 of
BNSS, 2023, praying to call for records of the docket Order dated 07.08.2025
passed in Crl.M.P.No.581 of 2025 in M.C.No.8 of 2015 by the Additional



District Munsif cum Judicial Magistrate, Ambut Tirupathur District, set aside the same as illegal and thereby render justice.

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For Petitioner(s): Ms.Gopika Nambiar
For M/s.Sharath Chandran

For Respondent(s): Mr.R.Govindasamy

ORDER

The revision challenges the docket order passed by the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, Tirupathur District, by which a distress warrant has been issued against the petitioner.

2. The respondent herein had filed an application in Crl.M.P.No.581 of 2025 in M.C.No.8 of 2015 seeking enforcement of the order passed by this Court in Crl.O.P.No.29092 of 2019 dated 02.09.2022. It appears that when the case was called on 07.08.2025, the petitioner was called absent and hence, the impugned order came to be passed.

3. The learned counsel for the petitioner would submit that the order cannot be sustained in view of the law laid down by this Court in ***S.T.Prabhakar vs. The Secretary to Government, Home Department, Fort St.George, Chennai – 600 009 and 2 others*** reported in **2011 (1) CTC 355**, and that the learned Magistrate ought to have examined whether there was any



sufficient cause shown by the petitioner for non-compliance of the order, before issuing a distress warrant.

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4. Heard the learned counsel for the respondent and perused the materials available on record.

5. It is seen that by the impugned order the learned Magistrate had issued a distress warrant before issuing a warrant for recovery of the money. In

S.T.Prabhakar's case [cited supra], this Court has held as follows:

“11. Unfortunately, from the records, it could also be seen that on the very same day, instead of issuing a warrant for recovery of fine, [Form No.44], the learned Judicial Magistrate issued a distress warrant as per Form No.18 in the schedule, which is the warrant of imprisonment on failure to pay maintenance. It is needless to point out that such a warrant of imprisonment could be issued only in a petition filed under [Section 125\(3\)](#) of the Code, that too, on getting satisfied that the defaulter had failed to comply with the order without sufficient cause. For any reason, if the defaulter is able to show sufficient cause, then the Magistrate shall not impose sentence of imprisonment. Under [Section 125\(3\)](#) of the Code, the Magistrate has got power to issue warrant for levy of fine [Form No.44] and in addition to that, he may impose a sentence of imprisonment and the said term shall not extend beyond 12 months period. While deciding as to whether sentence of imprisonment can be imposed or not and while considering the petition under [Section 125\(3\)](#) of the Code, the Magistrate is required to give an adjudication as to whether failure to comply with the order is without sufficient cause or not. In the absence of any such finding, the Magistrate shall not impose sentence of imprisonment.”



Since the procedure adopted by the learned Magistrate is contrary to the above observations, this Court is inclined to set aside the impugned order and remand the matter back to the learned Magistrate for fresh consideration.

6. Accordingly, the learned Magistrate is directed to consider CrI.M.P.No.581 of 2025 in M.C.No.8 of 2015 afresh, after giving an opportunity to both parties to put forth their respective cases. However, the petitioner is directed to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) within a period of four weeks from today towards arrears of maintenance.

7. With the above observations, this Criminal Revision Case stands disposed of. Consequently, connected miscellaneous petition is closed.

25-02-2026

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SUNDER MOHAN J.

cda/ars

To

The Additional District Munsif cum Judicial Magistrate,
Ambur, Tirupathur District.

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