



C.R.P.(MD) No.629 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2026

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

**C.R.P.(MD) No.629 of 2026
and
CMP(MD) No.2934 of 2026**

P.Sabarirajan

... Petitioner

vs.

1.M.Kalyani @ Kavi

2.Minor.Devadharshini

... Respondents

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 24.10.2025 made in I.A.No.5 of 2025 in HMOP.No.73 of 2024 on the file of the Family Judge, Tirunelveli.

For Petitioner

:Mr.Mohan for
Mr.R.Jenifer Bibin

ORDER

This Civil Revision Petition challenges the order dated 24.10.2025 passed in I.A.No.5 of 2025 in HMOP.No.73 of 2024 on the file of the Family Court, Tirunelveli.



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2.For the sake of convenience, the parties shall be referred to as husband and wife.

3.The petitioner-husband married the first respondent-wife on 01.12.2023 at Vallanadu Manakkarai Sri Malipaarvathi Amman Temple. From the wedlock, a child was born. The child is a toddler aged less than 2 years.

4.Post the matrimony, the husband came to know that the wife was aged only 17 years at the time of marriage and not 19 years as projected by the wife and her parents. He alleged that the wife did not spend much time with him, but was frequently staying at her parent house. In addition, the husband had observed that the wife constantly carrying on conversation over the mobile phone for long hours. On 11.02.2024, after he had retired for the day, he found that his wife was gurgling and chatting with someone over WhatsApp. This raised suspicion in his mind. He found out that the wife was sending inappropriate messages and contents to one 'X'.

5.The next morning, he confronted the wife as to who the 'X' was. The husband alleges that the wife attempted to retrieve herself



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from this question by stating that 'X' happens to be her female friend, by name, 'K.....'. On further questioning as to why she sent inappropriate contents to 'K.....', the husband alleges that the wife confessed that it was her male friend from Sankarankoil.

6.Later, he came to know that the wife had eloped with the said 'X' to Tirupur and got married to him. Since at the time of marriage, she was only 17 years, her father had lodged a complaint with the jurisdictional police station. The police had registered an First Information Report against the said 'X' and his family members invoking Section 363 of the Indian Penal Code r/w Section 5(1) and 6 of the POCSO Act and Sections 9, 10 and 17 of the Prohibition of Child Marriage Act. On further probe, the husband came to know that the FIR resulted in a positive final report. The charge sheet has been taken on file by the jurisdictional POCSO Court at Thoothukudi and the same is currently pending in S.C.No.146 of 2022.

7.Alleging that the marriage is null and void, the husband filed HMOP.No.73 of 2024, invoking Section 11 r/w 5(i) of Hindu Marriage Act, 1955. Summon was served on the wife. Soon thereafter, she filed I.A.No.5 of 2025 invoking Section 24 of the Hindu Marriage Act, 1955,



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seeking interim maintenance pending disposal of HMOP.No.73 of 2024. This petition was resisted by the husband on more or less the same grounds, on which, he had filed the divorce petition.

8.The learned Family Judge taking into consideration the income of the husband, who is working as an Assistant in TANGEDCO, allowed the application, directing payment of Rs.5,000/- each to the respondents herein, in total a sum of Rs.10,000/-. Aggrieved by the said order, the petitioner is on Revision before this Court.

9.I heard Mr.Mohan appearing for Mr.R.Jenifer Bibin for the petitioner.

10.Mr.Mohan urges that the marriage between the petitioner and the first respondent is null and void, as the wife was a child at the time of marriage. He further pointed out that in terms of Section 11 r/w Section 5 of the Hindu Marriage Act, 1955, in case, at the time of marriage, one of the spouses has already been married, such marriage is void. Finally, adverting to the manner in which the wife had been in contact with her male friend, even post the marriage, he urges that



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the wife is not entitled to maintenance at all. Insofar as the child is concerned, he pleads that the husband has taken out an application in I.A.No.7 of 2025, for a DNA test of the child. In other words, the husband is questioning the paternity of the child. On these grounds, he pleads that the trial Court erred in granting the order of maintenance.

11.I have carefully considered the submissions of Mr.Mohan. I have gone through the records.

12.The relationship between the parties is not in dispute. They entered into a matrimony on 01.12.2023. Whether this matrimony is valid and binding on the parties or whether it is void on account of the plea taken by Mr.Mohan, would have to be gone into at the time of final disposal.

13.The husband is admittedly working in a quasi Government service, namely, TANGEDCO. The Trial Court has found that he is generating a sum of Rs.34,820/- per month. Though the husband has trotted out several excuses, like deductions for marriage expenses, vehicle loans etc., the Court concluded that giving offset to all these



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expenses, the petitioner would still be taking home a sum of Rs. 21,784/-.

14. In terms of Section 24 of the Hindu Marriage Act, 1955, where, it appears to the Court that, one of the parties does not have an independent income sufficient for his/her maintenance and support and the necessary expenses for contesting the matrimonial proceeding, it may, on an application direct the other party to pay the expenses of the proceedings as well as the monthly maintenance, pending disposal of the main HMOP. At the time of fixation of the amount of maintenance, a Court is called upon to take into consideration the income of the petitioner as well as the income of the respondent. The amount fixed as maintenance should be reasonable. This provision has been interpreted by the Supreme Court to hold that the amount of maintenance that a husband would have to pay to the wife should be commensurate to the amount that the husband would have spent on the wife, had the matrimonial life not hit the rocks. In other words, the status of the wife must continue to be as if she had been living with the husband. (see, **Rajnish Vs Neha and others, (2021) 2 SCC 324** and **Chaturbhuj Vs. Sita Bai, (2008) 2 SCC 316.**)



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15. Applying these principles to the facts of the present case, when the husband is earning a sum of Rs.21,784/- even if I was to set apart a sum of 1/3rd towards the personal expenses of the husband, that still leaves in his hand a sum of Rs.14,000/-. The wife and her child are not living in some remote part of Tamil Nadu, but are residing in Tenkasi, which is a fairly well-developed city. In such a city, to expect a woman to maintain a child at any rate less than Rs. 10,000 would be totally unreasonable and would also be harsh on her. This is especially so, since the child, as pointed out above, is a toddler of less than 2 years. When the wife has no sufficient income and when she is dependent on the maintenance amount and since bringing up a child would incur a lot of expenses, including nutritious food, clothing, etc., I am not in agreement with Mr.Mohan that the Trial Court had committed an error in granting an order of maintenance of Rs.10,000/-. In fact, I am of the view that the amount that has been fixed is on the conservative side. As the wife is not on Revision before me, I need not concern myself with that aspect.

16. The plea on the merits of the case has absolutely no relevance while deciding the quantum of maintenance. Till the marriage is declared as void, the relationship between the petitioner



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and the respondents continues. As long as it continues, it is the duty of the earning member to ensure that the other partner sustains herself and her dependent, to conduct the litigation in a proper manner. If maintenance was to be denied to the wife on the grounds urged by Mr.Mohan, then she would have no money to fight the litigation and the husband would have a literal walkover. Such cannot be the position of law. Section 24 has been incorporated only to protect women from the difficulties they face while contesting the matrimonial disputes.

17.In the light of the above discussion, I do not find any merits in the Revision. The Civil Revision Petition is **dismissed**. It is open to Mr.Mohan to raise all the contentions that are available to him before the Trial Court. No costs. Consequently, connected Miscellaneous Petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No

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The Judge, Family Court, Tirunelveli.



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V. LAKSHMINARAYANAN, J.

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