

Crl.O.P(MD)No.6281 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.02.2026

Pronounced on : 12.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD)No.6281 of 2021

and

Crl.M.P(MD)No.3597 of 2021

A.Kanagarasu,
S/o.Arumugam,
Room No.3, Sahayamadha Auction Complex,
Palakkarai,
Thiruvaiyaru Town and Taluk,
Thanjavur District.

...Petitioner/Petitioner

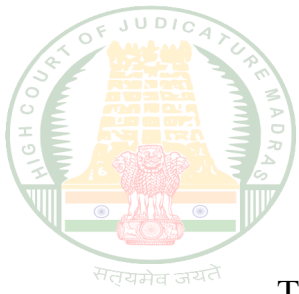
Vs.

Amutha,
W/o.Kanagarasu,
22/3, Yashothai Nagar,
Vellachi Mandapam,
Thiruvaiyaru Taluk,
Thanjavur District.

...Respondent/Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C. to set aside the order, dated 24.11.2020 in Crl.R.C.No.25 of 2020 on the file of the II Additional District and Sessions Judge, Thanjavur and that of the order, dated 12.03.2020 made in M.C.No.7 of 2016 on the file of the Judicial Magistrate, Thiruvaiyaru and allow the Criminal Original Petition.

For Petitioner : Mr.R.Devaraj
For Respondent : Mr.T.A.Ebenezer



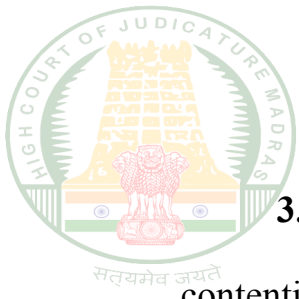
ORDER

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This Criminal Original Petition is filed to set aside the order, dated 24.11.2020 in Crl.R.C.No.25 of 2020 on the file of the II Additional District and Sessions Court, Thanjavur and that of the order, dated 12.03.2020 made in M.C.No.7 of 2016 on the file of the learned Judicial Magistrate, Thiruvaiyaru.

2. Brief facts of the case.

The petitioner and the respondent are spouses and their marriage was solemnized on 27.06.1988. Out of wedlock, they have a son and a daughter. Due to some misunderstanding, they are living separately. The petitioner has filed HMOP.No.68 of 2016 before the Additional Subordinate Court, Thanjavur, seeking a divorce against the respondent. The respondent has filed M.C.No.7 of 2016 before the Judicial Magistrate Court, Thiruvaiyaru, seeking maintenance U/s.125 of the Cr.P.C. from the petitioner, as the petitioner is getting a pension from the Army and also earning income as an LIC agent, but he is not maintaining her and her children. The petitioner has contended that the respondent is receiving rents from the houses constructed by him and also their children are in a good position and living with the respondent.



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3.The learned Judicial Magistrate, Thiruvaiyaru, heard both sides contentions and passed an order, dated 12.03.2020 directing the petitioner to pay Rs.10,000/- p.m to the respondent towards maintenance.

4.Aggrieved by the order of the learned Judicial Magistrate, Thiruvaiyur, the petitioner preferred a criminal revision in Crl.R.C.No.25 of 2020 before the II Additional District and Sessions Court, Thajavur. The criminal revision petition was partly allowed by the first Appellate Court by its order, dated 24.11.2020 and modified the quantum of monthly maintenance as Rs.8,000/- from Rs.10,000/-.

5.Being not satisfied with the order of the learned II Additional District and Sessions Judge, Thanjavur, the petitioner has preferred this Criminal Original Petition under Section 482 of Cr.P.C.

6.Heard both sides and perused the records in this Criminal Original Petition.

7.The learned counsel for the petitioner has argued that the petitioner is 63 years old retired ex-serviceman. He was thrown out from the house constructed by him. The petitioner allowed the respondent to live in his own



house and to receive rents from the tenants. So, maintenance is not necessary.

Though the trial Court came to the conclusion that the respondent is residing in the house constructed by the petitioner and is receiving rent of Rs.6,500/- p.m., it has passed an order directing the petitioner to pay Rs.10,000/- p.m. to her. The first Appellate Court has modified the maintenance amount to Rs.8,000/-, though upholding that the respondent is residing in his own house and receiving rent from rental houses. The petitioner is ready to allow the respondent to receive rent till her death. The respondent is also getting Rs.20,000/- p.m from her properties from rented shops. Their children are now earning members and they are taking care of their mother, the respondent herein, ignoring their father, the petitioner. The petitioner has aged and is living with only a pension of Rs.14,916/-, which is insufficient for his maintenance. Therefore, the order of maintenance may be set aside.

8.Per contra, the learned counsel for the respondent vehemently contended that the petitioner has not paid a single pie even after the order of the Court directing him to pay maintenance. So far, there is an arrear of Rs.8,24,000/- from the petitioner, let him settle the arrear amount first. The respondent is also aged and is not an earning member. The petitioner is getting a pension and also earning as LIC agent, which is not denied by him.



So, there is no need to set aside the order of the Courts below directing the petitioner to pay maintenance to the respondent.

9.From the arguments of both sides and perusal of material records, it is clear that the petitioner challenged the order of maintenance by the Courts below. It is the case of the petitioner that, though they lived together, after there was a misunderstanding between them, they are living separately and that the petitioner filed a divorce petition and the respondent filed a maintenance case as a counterblast to the divorce petition. The fact remains that both are legally wedded spouses and are living separately. The prime contention of the petitioner is that he was thrown out from his own house by the respondent/wife and the respondent is receiving rents from the houses and shops constructed by the petitioner. The further contention of the petitioner is that he is now aged 63 years and is running his life with a meager pension of Rs.15,000/- and allows his wife/respondent to reside in his house by receiving the entire rent amounts and also their children are supporting the respondent, the petitioner is not in a position to maintain her and is helpless.

10.It is the specific case of the respondent that the petitioner is duty-bound to maintain her and the petitioner is an ex-service man and getting a pension in addition, he is earning more income as an LIC agent,



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which is substantiated by the respondent and the petitioner is financially sound and capable of maintaining the respondent. Therefore, the petitioner is liable to pay the maintenance amount, but he has not yet paid a single pie despite the Court order.

11.The prime petition is filed U/s.125 of the Cr.P.C. by the wife seeking maintenance from the husband. Section 125 of Cr.P.C. provides maintenance for the wife as well as other dependents. The word “wife” has been defined in explanation (b) of Section 125(1) of Cr.P.C. as follows:

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

Hence, there can be no doubt that Section 125 of Cr.P.C. enumerates that an order of maintenance is a measure of social justice and has to be passed in cases where any person, despite having sufficient means of income, neglects or refuses to maintain his wife, who is unable to maintain herself. This being the position of law, the husband is obligated to maintain his wife.

12.From perusal of material records, it is seen that even though the respondent sought Rs.20,000/- per month, the trial Court ordered to pay Rs.10,000/-, which was decreased to Rs.8,000/- p.m. by the first Appellate



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Court. There is no dispute that the respondent is residing in the house which was constructed by the petitioner and she is allowed to receive the rents from tenants till her death. However, on perusal of the records, both sides have not examined the tenants to show how much they are paying rent. However, there can be no agitation that the respondent is receiving rent at Rs.6,500/- as held by the trial Court and the same was upheld by the first Appellate Court. A husband cannot be permitted to take a plea of being thrown out by his wife to disown his statutory duty, and further, the husband is not allowed to contend that he is financially unsound to maintain his wife, considering the admitted facts that he is a pensioner, who is receiving a military pension of more than Rs.20,000/- and is also earning income as an LIC agent. From the enunciation of the law, the obligation on the husband to maintain his wife is essential. The respondent has not challenged the order of the first Appellate Court for maintenance of Rs.8,000/- p.m. In view of the above legal proposition, the orders of maintenance rendered by the Courts below need not be liable to be set aside. Therefore, this Court is of the considered opinion that the respondent is entitled to get maintenance of Rs.8,000/- p.m., as ordered by the first Appellate Court.

13.In the result, this Criminal Original Petition is dismissed. The order, dated 24.11.2020, in Crl.R.C.No.25 of 2020 on the file of the



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II Additional District and Sessions Court, Thanjavur, modifying the order, dated 12.03.2020, made in M.C.No.7 of 2016 on the file of the learned Judicial Magistrate, Thiruvaiyaru, is confirmed. Consequently, the connected Criminal Miscellaneous Petition is closed.

12.06.2026

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

To

- 1.The II Additional District and Sessions Court,
Thanjavur.
- 2.The Additional Subordinate Court,
Thanjavur.
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
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