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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.4753 of 2026

and

Crl.M.P(MD)No.5098 of 2026

Thayalan

...Petitioner/Respondent/Respondent

Vs

1. Geethapriya

2. Minor. Satvika

3. Minor.Siddharth

(Respondents 2 and 3 are rep. by their Mother and Natural Guardian,
the first respondent herein)

...Respondents/Petitioners/Petitioners

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to call for the records relating to Crl.M.P.No.113 of 2025 in M.C.No.57 of 2019 on the file of the Family Court, Sivagangai, and quash the same as being barred by limitation and unsustainable in law.

For Petitioner

: M/s.R.Balakrishnan



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ORDER

The present petition has been filed seeking to quash CrI.M.P.No.113 of 2025 in M.C.No.57 of 2019 on the file of the Family Court, Sivagangai, and quash the same as being barred by limitation.

2. The Petitioner has suffered an order in M.C.No.57 of 2019, dated 26.08.2021, on the file of the Family Court, Sivagangai. Admittedly, the maintenance amount ordered by the Family Court has not been paid. The wife and two minor children of the petitioner have preferred CrI.M.P.No.113 of 2025 under Section 128 r/w 125(3) of Cr.P.C. to recover a sum of Rs.7,50,400/- from the petitioner and on failure to issue warrant to the petitioner. This Miscellaneous Petition is under challenge before this Court.

3. According to the learned Counsel appearing for the petitioner, as per the proviso to 125(3) of Cr.P.C., warrant can be issued only when the petition to execute the maintenance amount is filed within a period of one year from the date of order. According to him, the order having been passed in the year 2021 and the present application having been filed in the year 2025, is clearly barred by limitation.



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4. This Court is of the considered opinion that the Miscellaneous Petition filed for recovering the amount of Rs.7,50,400/- is not barred by limitation.

However, as far as the issuance of warrant is concerned, it is for the petitioner to take such a defence before the trial Court. On the said ground, the summons issued by the Court in CrI.M.P.No.113 of 2025, cannot be quashed. Preserving the liberty of the petitioner, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is also closed.

04.03.2026

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

To

The Family Court,
Sivagangai.



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R.VIJAYAKUMAR, J.

RJR

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