



Cont.P.(MD)No.2916 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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**Reserved On:30.01.2026**

**Pronounced On: 05.02.2025**

CORAM:

THE HONOURABLE **DR.JUSTICE G. JAYACHANDRAN**  
AND  
THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

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1.Malathi  
2.Minor Raja  
(Minor 2<sup>nd</sup> petitioner represented  
by his mother and guardian,  
the first petitioner)

... Petitioners/Petitioners

Vs.

Mr.Senthamaraikannan  
Superintendent of Prison,  
Central Prison,  
Palayamkottai,  
Tirunelveli District.

...Contemnor/Respondent

PRAYER:- Contempt Petition filed under Section 10 of the Contempt of Courts Act, to punish the respondent for the contempt of Court committed by him by his wilful disobedience to the order of the learned single Judge, Family Court of Tirunelveli, in Salary Attachment Warrant(Distrain Warrant for Arrears of Maintenance) dated 07.07.2023 read with order in communication D.No.123/2023 dated 07.07.2023 on this file.



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For Appellant : Mr.K.N.Thambi  
For Respondent : Mr.S.R.A.Ramachandran,  
Additional Government Pleader

**ORDER**

(Order of the Court was made by **DR.G.JAYACHANDRAN, J.**)

This contempt petition is filed to punish the respondent for the contempt of Court committed by him by his wilful disobedience to the order of the learned Judge, Family Court, Tirunelveli, in Salary Attachment Warrant (Distrain Warrant for Arrears of Maintenance) dated 07.07.2023 read with order in communication D.No.123/2023 dated 07.07.2023.

2.The case of the first petitioner is that:-

She got married to one Kannan @ Thangasamy on 27.01.2005 as per Hindu Rites and Customs. A son was born to them on 19.10.2005. Her husband and his family members caused cruelty by demanding dowry and driven her out from the matrimonial home. In this connection, she lodged a complaint to the Superintendent of Police, Tirunelveli. During the enquiry, her husband Kannan promised to take her back, but failed to keep his promise. Hence, a petition for maintenance for herself and her minor child, was filed before the Judicial Magistrate, Tirunelveli,



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under Section 125 Cr.P.C as M.C.No: 4/2006, later it was transferred to Family Court, Thirunelveli and renumbered as M.C.No.70/2014. The Family Court, taking into consideration the counter filed by Kannan, the respondent who denied the paternity of the child, but later found to be a false defence after DNA test and the long pendency of the petition for nearly 10 years, vide its order dated 30.03.2015, ordered maintenance of Rs.5000/- each payable from the date of filing the maintenance petition ie., 13.02.2006.

3.The first petitioner stating that a criminal case was registered against her husband and his relatives which was taken cognizance by the Mahila Court, Thirunelveli in C.C.No.545 of 2013 and it ended in their conviction. When the appeal in C.A.No.32 of 2016 was pending, her husband promised to pay the arrears of maintainance as per the order passed in M.C.No.70 of 2014. Hence, she consented for compromise. However, he failed to pay the arrears as well as the current maintenance. Hence, she has filed an application in CrI.M.P.No.199 of 2023 under Section 128 of Cr.P.C claiming Rs.20,60,000/- towards arrears of maintenance. In the said application, the Family Court, Tirunelveli, has issued Salary attachment warrant addressed to the Superintendent of



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Prison, Palayamkottai, under whom Kannan is working as a Police Constable.

4. Contempt petition is against Senthamaraikannan, the Superintendent of Prison, Palayamkottai, alleging even after one year the warrant of attachment of salary issued by the Court on 07.07.2023 wilfully disobeyed by not executed.

6. When the petition came up for consideration on 23.01.2026, the learned Additional Government Pleader submitted that there is no wilful disobedience of the salary attachment order. For not executing the Court order, departmental action initiated against the persons responsible. The order of attachment of salary is effected from November 2025 vide proceedings of the Central Prison Superintendence, Palayamkottai, dated 13.10.2025.

7. The Learned Counsel for the Petitioners submitted that, the reason given for belated execution of the warrant of attachment of Salary is not tenable. The contemnor wantonly to assist his subordinate, disobeyed the Court order till filing of the contempt petition. The delay in executing the attachment order is an act of contempt.



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8.Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the contemnor.

9.The salary attachment warrant, dated 07.07.2023 issued by the Family Court, Thirunelveli, reads as below:-

*“Whereas the respondent Thiru.Kannan @ Thangasamy S/o.Sudalai Madan, working as Police. Central Prison, Palayamkottai (This Court Cr.M.P No.199/2023 in MC.No.70/2014) was on the day 03.07.2023 of ordered before me of u/s. 128Cr.P.C and order to pay a arrears of maintenance of Rs. 20,60,000/-.*

*Whereas the said respondent although required to pay the said arrears of maintenance has not paid the same or any part thereof.*

*You are hereby authorized and required to realize the amount of the said arrears of maintenance from the salary of respondent at the rate of Rs.10,000/- per month for the period of February 2006 to April 2023 and may be sent to the petitioner by the way of Demand Draft in the name of the petitioner Tmt.Malathi, W/o.Kannan @ Thangasamy and her son Minor. Raja, Door No.2/53, South Street, Sannathu Pudukudi, Raja Pudukudi, Thoothukudi District, after intimation to this court without fail.”*



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10.The contemnor, in his proceedings dated 13.10.2025, has ordered to deduct Rs.13,634/- per month for 151 months from the salary of S.Thangasamy, towards the recovery of Rs.20,60,000/- due and payable to Tmt. Malathi for her maintenance, as per the warrant issued by the Family Court, Thirunelveli.

11.Chapter IX of Cr.P.C ( Chapter X of BNSS ) deals with the order of maintenance of wives, children and parents. While, section 125(3) of Cr.P.C ( Section 141(3) of BNSS) deals with the execution of the order of maintenance/allowance, Section 128 of Cr.P.C deals with the enforcement of the order of maintenance.

12.The warrant of attachment of salary, which is alleged to have been disobeyed, is issued under Form 44 in the schedule II of the Code. Under the Criminal Procedure Code, Section 421 is the provision to recover fine and the same is applicable to the recovery of maintenance/allowance ordered under Section 125 of the Code also. Attachment of salary is not a mode explicitly specified in Section 421, same to be inferred from sub sections (2) and (3) of Section 421 of the Code, that District Collector is empowered to realise the amount as if



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recovery of land revenue.

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13.For convenient sake Section 421 of the Code is extracted below:-

*“Section 421:(1)When an offender has been sentenced to pay a fine the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may*

*(a)issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to the offender;*

*(b)issue a warrant to the collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both of the defaulter; Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 357.*

*(2)The Stale Government may make rules regulating the manner in which warrants under clause (a) of Sub-Section (1) are to be executed, and for the summary*



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*determination of any claims made by any person other than the offender in respect of any properly attached in execution of such warrant.*

*(3)Where the Court issues a warrant to the Collector under clause (b) of Sub-Section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law;*

*Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.”*

14.The person, who is liable to pay maintenance, is Kannan @ Thangasamy and the warrant of attachment of salary is addressed to the Superintendent of Prison, who is the employer of the debtor. Hence, the attachment of salary for recovery of money decree can be done only as contemplated in Order 21 Rule 48 of the Civil Procedure Code. Though there are other mode of recovery of maintenance arrears, like arrest of the defaulter, the first petitioner has chosen the mode of attachment of salary. Having chosen this mode, it is necessary to follow the restrictions mentioned in Order 21 Rule 48 of the Civil Procedure Code.



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15.On reading of the provisions of the Cr.P.C and C.P.C in respect of recovery of maintenance, ordered under Section 125 CrPC through attachment of Salary, we are of the view that the delay in enforcing the attachment order does not fall within the scope and ambit of Contempt of Courts Act.

16.The Learned Counsel for the petitioners rely on the judgment of this Court in *Advocate General of Tamilnadu, Madras –vs- R.M.Krishna Raju and others ( 1980 LW (cri) 263)* to emphasis there is wilful disobedience of the Family Court order and the contempt petition is maintainable before the High Court under Section 10 of the Contempt of Courts Act.

17.This judgment is in respect of intervening petitions filed by several Bar Associations and the Judicial Officers Association, when the High Court took on the file of the contempt petition moved by the Advocate General of Madras High Court against an Advocate, who wrote a letter to the Editor, the Hindu an English Daily, with an intent to scandalise or lower the authority of the Courts. While dismissing the intervening petitions, the Division Bench has made the following



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observation:-

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*“27.In the light of this clear pronouncement and the reasons given. by us supra, we cannot entertain the intervention petitions filed by the Bar Association and the Advocates Association.*

*28.Coming now to the petition filed by the Officers' Association, we have indicated even earlier that this petition stands on a different footing. We need not go into the question whether the grievance entertained by the Assistant Secretary viz., that the letter of the 1st respondent is directly aimed at the subordinate judiciary and has the effect of lowering the prestige of the subordinate judiciary to such an extent as to place them in ridicule and contempt before the members of the public, is justified or not. Suffice it to say that even if the grievance of the Officers' Association is a well founded one, it is only the High Court that can take action against the contemner. Sections 10 and 11 of the Contempt of Courts Act, read as follows!-*

*10. Every High Court shall have and exercise the same jurisdiction, powers and authority in accordance with the same procedure and practice in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself.*

*(proviso omitted)*

*11. A High Court shall have jurisdiction to inquire into or*



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*try a contempt of itself or any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the person alleged fo be guilty of contempt is within or outside such limits."*

*29. From the above sections it is manifestly clear that even in respect of the contempt of any subordinate Court, it is only the High Court that can take action against the contemner. The High Court acting as the apex institution has to safeguard the interest of the subordinate courts. As such, the Officers Association cannot seek intervention.*

The above observation made by the Court in the given contest have no relevancy to the facts of the case in hand.

18.The first petitioner, who has resorted to recover the arrears of maintenance by attachment of salary, has got her relief though the proceedings of the respondent dated 13.10.2025. Though there is a delay in implementing the warrant, it is stated that necessary disciplinary proceedings initiated against the erring staff. As viewed by the Division Bench in *R.M.Krishna Raju's case(cited supra)*, action by a Court for contempt is to be engaged in exercising its jurisdiction and powers to vindicate the majesty of law in its active manifestation against



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obstruction or outrage. We are of the view that the facts of this case as narrated above does not fall within the above said parameters.

19.The dismissal of the contempt petition shall not stand in the way of the petitioners to proceed against her husband for the recovery of arrears of maintenance and future maintenance in accordance with law.

20.In the result, this Contempt Petition stands dismissed.

**[G.J., J.] & [K.K.R.K., J.]**  
**05.02.2026**

Index :Yes/No  
Internet :Yes  
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To  
The Superintendent of Prison,  
Central Prison,  
Palayamkottai,  
Tirunelveli District.



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**DR.G. JAYACHANDRAN, J.**  
**AND**  
**K.K. RAMAKRISHNAN, J.**

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