



Crl.OP(MD)No.22152 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL.O.P.(MD) No.22152 of 2024

1. Suganya

2. Minor.Iniyasri

... Petitioners

Vs

J.Dhineshraja

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to issue a direction, directing the learned Chief Judicial Magistrate, Trichy to set-aside the docket order dated 21.09.2024 in unnumbered petition and number the revival petition in Cr.M.P. No. 27512 of 2022 in M.C. No. 48 of 2016.

For Petitioners : Mr. T.Leninkumar

For Respondent : Mr. S.Sankar

ORDER

Preface

This Criminal Original Petition has been filed invoking the inherent jurisdiction of this Court under Section 528 of the



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Bharatiya Nagarik Suraksha Sanhita, 2023, seeking a direction to the learned Chief Judicial Magistrate, Trichy, to set aside the docket order dated 21.09.2024 made in an unnumbered petition and consequently direct the Court below to number the revival petition filed in Cr.M.P.No.27512 of 2022 in M.C.No.48 of 2016.

Case of the Prosecution:

2. The petitioners herein are the wife and minor daughter of the respondent. The marital relationship between the first petitioner and the respondent is not in dispute, and the second petitioner is their child.

3. The first petitioner had earlier initiated proceedings under Section 125 Cr.P.C., before the learned Chief Judicial Magistrate, Trichy, in M.C.No.48 of 2016, seeking maintenance for herself and the minor child.

4. The learned Trial Court, upon consideration of the materials, had allowed the maintenance petition and directed the



5. It is the case of the petitioners that the respondent failed to comply with the maintenance order. Consequently, the first petitioner filed an execution petition under Section 125(3) Cr.P.C., in Cr.M.P.No.27512 of 2022 seeking enforcement of the maintenance order.

6. During the pendency of the execution proceedings, the respondent proposed a settlement by offering to pay a permanent alimony of Rs.3,20,000/- in two instalments on or before 26.05.2024. Based on such representation, a compromise was entered into between the parties.

7. Pursuant to the compromise, the respondent paid only a sum of Rs.1,00,000/- towards the first instalment but failed to pay the balance amount of Rs.2,20,000/-.



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8. In view of such non-compliance, the petitioners filed a petition dated 09.09.2024 seeking revival of the execution petition. However, the learned Trial Court returned the said petition by docket order dated 21.09.2024 stating that Cr.M.P.No.27512 of 2022 had already been dismissed as settled out of Court.

Grounds for Quash:

9. The petitioners seek interference of this Court on the following grounds:

(i) The compromise entered into between the parties was conditional upon full payment of the agreed amount, which has not been fulfilled by the respondent.

(ii) The dismissal of the execution petition based on such incomplete compromise cannot operate as a bar to revive the proceedings.

(iii) The docket order of the learned Trial Court mechanically returning the revival petition without numbering the same is illegal and contrary to settled principles of law.

(iv) The petitioners, being wife and minor child, cannot be



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deprived of the fruits of a maintenance order due to partial compliance by the respondent.

Arguments on either side:

10. The learned counsel for the petitioners contended that the compromise between the parties was not fully honoured and therefore, the petitioners are entitled to seek revival of the execution proceedings. It was further submitted that the learned Trial Court erred in returning the petition without even numbering the same.

11. The learned counsel placed reliance upon the judgment of the Hon'ble Supreme Court in ***Mahua Biswas Smt. Vs. Swagata Biswas and another***¹, wherein it was held that a maintenance order, even if temporarily suspended due to reconciliation or settlement, cannot be said to have been extinguished, and can be revived in the interest of justice.

¹ (CDJ 1997 SC 849)



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12. It was further argued that if revival is not permitted, it would discourage genuine attempts at settlement and would operate harshly against the wife and child.

13. The respondent has not yet been heard. The matter is yet to be posted for hearing the respondent.

Point for Consideration:

14. The point that arises for consideration in this petition is whether the learned Chief Judicial Magistrate was justified in returning the revival petition without numbering it on the ground that the execution petition had been dismissed as settled out of Court, despite the admitted non-compliance of the terms of compromise?

Analysis:

15. This Court has carefully considered the submissions made on behalf of the petitioners and perused the materials available on record.



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16. It is not in dispute that a maintenance order had been passed in favour of the petitioners. It is also not disputed that the respondent had failed to comply with the said order, necessitating the filing of execution proceedings.

17. The subsequent compromise entered into between the parties was clearly contingent upon payment of the entire agreed sum of Rs.3,20,000/-. The admitted position is that only Rs. 1,00,000/- has been paid and the balance amount remains unpaid.

18. In such circumstances, the compromise cannot be said to have been fully acted upon or concluded. The dismissal of the execution petition based on such incomplete settlement cannot operate to the prejudice of the petitioners.

19. The law laid down by the Hon'ble Supreme Court in ***Mahua Biswas Smt. Vs. Swagata Biswas and another***² squarely applies to the facts of the present case. The Hon'ble Apex Court has

² (CDJ 1997 SC 849)



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categorically held that maintenance orders may be treated as suspended but not wiped out, and revival should be permitted to avoid injustice.

20. The approach of the learned Trial Court in returning the petition at the threshold without numbering it reflects a hyper-technical view, which defeats substantive justice. The right to maintenance is a continuing right, especially in favour of a wife and minor child. Courts are duty-bound to ensure that such rights are not frustrated on procedural grounds.

21. Therefore, this Court is of the considered view that the petitioners are entitled to have their revival petition entertained and adjudicated on merits.

22. In the result, this Criminal Original Petition is allowed and the docket order dated 21.09.2024 passed by the learned Chief Judicial Magistrate, Trichy, in the unnumbered petition is hereby set aside.



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23. The learned Chief Judicial Magistrate, Trichy, is directed to receive, number and take on file the revival petition filed by the petitioners in Cr.M.P.No.27512 of 2022 in M.C.No.48 of 2016, if it is otherwise in order, and dispose of the same on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

24. It is made clear that the learned Trial Court shall consider the revival petition uninfluenced by any observations made earlier in the docket order and shall pass appropriate orders, bearing in mind the principles laid down by the Hon'ble Supreme Court with regard to revival of maintenance proceedings.

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

To

The Chief Judicial Magistrate,
Trichy.



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L.VICTORIA GOWRI, J.

Sml

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