

**IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE-II
NEYYATTINKARA**

Present:-Smt.Nimmi Nair. M, Judicial First Class Magistrate-II, Neyyattinkara

Tuesday, 26th day of May 2026

Crl.M.P No.7455/24

IN

MC.103/2024

Petitioner : Sunil. S, S/o Surendran, Nediavila Veedu, Palappooru,
(Respondent in Kalliyoor, Vellayani. P.O, Thiruvananthapuram.
MC.103/24) *(By advocate S Rajayyan)*

Respondents : 1. Chinchu Chandran, Ajith Bhavan, Vandithadam,
(Petitioners in Kalliyoor. P.O, Vellayani, Thiruvananthapuram.
MC.103/24) 2. Dhanasree, D/o Chinchu Chandran, -do -
3. Dhanalekshmi, D/o Chinchu Chandran, -do -
4. Bindhu. L, -do -
(By advocate Yadhuraj. R)

Order : The petition is allowed.

This Crl.M.P having been heard today, the Court passed the following:

ORDER

1. This is a petition filed by the respondent seeking to set aside the ex-parte order dated 20-11-2025 passed in the above matrimonial case.
2. The case of the respondent is that he could not appear before this Court on the date when the matter was called due to sufficient reasons. It is stated that the absence was neither wilful nor deliberate. The respondent has further contended that if the ex-parte order is allowed to stand, serious prejudice and hardship would be caused.
3. Notice was served on the petitioner. The petitioner opposed the application contending that the respondent was negligent in appearing before the Court and that no sufficient cause has been shown for setting aside the ex-parte order.

4. Heard both sides. Perused the records.
5. The records reveal that the matter was proceeded ex-parte against the respondent on 20-11-2025. The explanation offered by the respondent for non-appearance appears to be *bonafide* and satisfactory. It was also submitted that he could not appear and engage a counsel before the court as he was laid up due to high fever and headache on the date given for appearance of the parties. In matrimonial matters, the rights and status of parties are involved and, as far as possible, disputes are to be decided on merits rather than on technical default.
6. It is well settled that unless there is wilful negligence or deliberate inaction, an opportunity should ordinarily be granted to contest the matter on merits. No serious prejudice will be caused to the petitioner if the ex-parte order is set aside, whereas refusal to do so may result in denial of reasonable opportunity to the respondent.
7. Accordingly, the petition is allowed. The ex-parte order 20-11-2025 is hereby set aside on condition that the respondent pays costs of ₹.750/- to the petitioner on or before 30-06-2026.
8. Both parties shall appear before the court on the next posting for further proceedings on the said date.

(Dictated to the Confidential Assistant,transcribed and typed by her, corrected and pronounced by me in Open Court on this the 26th day of May 2026.)

Judicial First Class Magistrate-II,
Neyyattinkara.