

In The Court of Principal District and Sessions Judge, Kallakurichi.

Present: Tmt. Iruzan Poonguzhali, M.L.,
Principal District and Sessions Judge,
Kallakurichi.

Tuesday, the 30th day of June 2026

C.R.P. No.07/2026
(CNR No: TNKA01000108-2026)

Saravanan, age 48
S/o. Dhanabalan : Revision Petitioner/Respondent

/Vs/

Vijayakumari, age 46
W/o.Saravanan : Respondent/Petitioner

On Revision against the order passed by the learned Judicial Magistrate No.I, Kallakurichi in MC.06/2025, dated 10.11.2025.

Parties before the Trial Court

Vijayakumari, age 46
W/o.Saravanan : Petitioner

/Vs/

Saravanan, age 48
S/o. Dhanabalan : Respondent

This petition is coming on this day of 25.06.2026 before me for final hearing in the presence of **Thiru.A.Prakash**, Advocate appearing for the Revision petitioner and **Thiru.S.Kotishwaran**, appearing for the Respondent and upon hearing the arguments of both sides and upon perusing the order of the trial court and records and having stood over for consideration till this day, this court delivers the following...

ORDER

This Criminal Revision petition has been filed by the Revision petitioner/Respondent under Section 438 and 440 of BNSS, to set aside the

order passed by the learned Judicial Magistrate No.I, Kallakurichi in MC.06/2025 dated 10.11.2025.

1.The petition averments filed by the petitioner/wife in brief are as follows :-

The petitioner and the respondent are husband and wife. Their marriage was solemnized on 28.11.2003 at Thiruvalluvar Marriage Hall, Thillai Nagar, Trichy, according to Hindu rites and customs, in the presence of parents and relatives from both sides. At the time of wedding, the petitioner's parents provided 25 sovereigns of gold jewelry for the petitioner and 5 sovereigns for the respondent, along with all necessary house hold articles. They also handed over a cash of Rs.40,000/- to the respondent to cover wedding expenses. Following the marriage, both lived together harmoniously for a period of 3 years. Out of the lawful-wedlock two male child by name Harish Rahavendra and Kabilish were born to them on 07.10.2004 and 16.03.2007 respectively.

According to the petitioner at the initial stage of marriage, the respondent treated her well. Thereafter the respondent developed illicit relationship with many women, subjected her to physical and mental cruelty. In addition to that, he often beat her and harassed her to bring Rs.5,00,000/- from her parents house for the maintenance of the children and to start his own business. However, the petitioner tolerated all the cruelty meted out by the respondent, hoping that everything will be alright in future. But for the past 1-1/2 years the respondent scolded her with filthy language that she has to come with Rs.5,00,000/- or else she has go to her parents house with the children and stay there permanently, beat her and chased her from the matrimonial home. At present she is residing at her mother's house with the children. Despite repeated request, the respondent neither changed his conduct nor maintained the petitioner and the children. The respondent is working as a HOD, in a private college and earning

Rs.40,000/- per month, that apart by way of rent, he is getting Rs.25,000/- per month. So also he is doing financial transactions and earning Rs.50,000/- . The respondent never maintained the petitioner, he completely deprived her from proper help, amenities and essential needs to life's food and cloths and she has no source of income. Hence the petition is filed by the petitioner, claiming a monthly maintenance of Rs.30,000/- and Rs.1,00,000/- per year towards festival expenses. Hence, the petition.

3) Counter averments filed by the Respondent in brief are as follows

3.1. The factum of marriage is admitted by the respondent. So also it is true that two sons were born to them. At the time of marriage 5 sovereigns of gold jewelry was given to the petitioner. That apart cash of Rs.10,000/- was given, for purchase of wedding dress. The petitioner in collusion with her parents, underwent a sterilization procedure without the respondent's knowledge. Consequently the respondent moved into a separate house hold with the petitioner and their two children. The respondent put his two children in the YMCA school and lived without any conduct with his parents. Furthermore, the petitioner frequently picked quarrels with the respondent's mother. She used to visit the private college where the respondent work and during his work hours spoke in a derogatory, manner particularly to the teachers who worked with the respondent. She frequently went out and wandered about. The two sons were studying at the Srirangam Government High School. After the annual examination concluded, the petitioner picked up a quarrel and took both sons away from the respondent to her maternal home. The petitioner took her clothes, jewelry and other belongings from the matrimonial home without informing him. When school reopen the respondent call the petitioner and asked for the sons to be sent to school. Whereas, she had put them in a school in Kallakurichi without his knowledge. The respondent

lives alone and his sons would visit him during school holidays. He would attend to their needs and arrange for the education of both sons. He purchased motorcycle and new lap-tops for both sons.

3.2. The respondent work as a teacher in a private college and earned a monthly salary of Rs.10,000/-. The respondent did not receive Rs.40,000/- nor did he rent out any vacant land. The petitioner from May 2016, has been living separately from the respondent at her parents' home without any valid reasons and the respondent is not legally liable to pay maintenance. Hence, prays for dismissal.

4) The Grounds of Revision petition reads are as follows:

4.1. The order of the trial Court is contrary to the pleadings, evidence and settled principles of law, and is therefore liable to be set aside.

4.2. The trial Court failed to appreciate that the petitioner voluntarily withdrew from the matrimonial home without sufficient cause. The evidence of the respondent establishes that she left the matrimonial home on her own and has been residing with her parents since May 2016. The allegations of cruelty, illicit relationship and dowry demand were not supported by any independent evidence.

4.3. The trial Court erred in assessing the respondent's income. There is no documentary evidence to prove that the respondent is earning Rs.40,000/- as HOD, receiving Rs.25,000/- as rental income or earning Rs.50,000/- through financial transactions. The findings regarding income are based on mere assumptions. The burden of proving the respondent's income lay on the petitioner, but no salary certificate, bank statement, income-tax return or rental documents were produced. The respondent specifically pleaded and deposed that he is only a private college teacher

earning around Rs.10,000/- per month. The trial Court failed to consider this defence.

4.4. The trial Court failed to appreciate that the respondent has been maintaining and educating the children, purchased motorcycles and laptops for them, and has discharged his parental responsibilities. These circumstances were ignored. The quantum of maintenance awarded is excessive and disproportionate to the respondent's actual earning capacity and financial liabilities.

4.5. The trial Court failed to properly appreciate the oral and documentary evidence and recorded findings based on conjectures and presumptions. The impugned order is unsustainable in law and on facts and therefore deserves to be set aside or, in the alternative, the quantum of maintenance deserves to be substantially reduced. Hence prays to set aside the order of the Learned Judicial Magistrate No.I, Kallakurichi in MC No.06/2025, dated 10.11.2025.

4.6. Per contra, the learned counsel for the respondent/wife would contend that the Revision filed by the Revision petitioner is devoid of merits and is liable to be dismissed. The learned trial Court, after properly appreciating the oral and documentary evidence rightly awarded maintenance in my favour.

4.7. The Revision petitioner has admitted the marital relationship and the birth of two children. He neglected and failed to maintain the petitioner and the children despite having sufficient means. The petitioner was compelled to leave the matrimonial home on account of the Revision petitioner's continuous acts of cruelty, harassment and unlawful demand for money. The petitioner has no independent source of income and was unable to maintain herself and her children.

4.8. The Revision petitioner is gainfully employed and has sufficient earning capacity. He has deliberately suppressed his true income before this Court. The burden is on him to disclose his actual income and assets. The learned trial Court has considered all the evidence and rightly arrived at the conclusion that the petitioner is entitled to maintenance. There is neither illegality nor perversity in the findings warranting interference by this appellate Court.

4.9. The quantum of maintenance awarded is reasonable. Considering the Revision petitioner's earning capacity, the rise in the cost of living, the amount awarded is not excessive. The appeal has been filed only to protract the proceedings and to avoid payment of maintenance. The Revision petitioner has not made out any valid ground for interference with the well-reasoned order of the trial Court. Hence, it is respectfully prayed that this Court may be pleased to dismiss the appeal with costs and confirm the order of maintenance passed by the learned trial Court, and thus render justice.

5. The points arise for consideration are as follows:

1. Whether the petitioner/wife is entitled to maintenance from the respondent/husband, if so what would be the amount of maintenance?
2. Is the award passed by the Learned Judicial Magistrate is sustainable?

6. Answering for Point Nos. 1 and 2:-

6.1. The relationship between the parties as husband and wife is admitted. The Revision petitioner has also admitted the birth of two

children through the respondent. Thus, the marital relationship and the legal obligation of the husband to maintain his wife are not in dispute.

6.2. The case of the respondent before the trial Court was that after a few years of cordial matrimonial life, the Revision petitioner subjected her to physical and mental cruelty, demanded money from her parental family, neglected to maintain her and ultimately drove her out of the matrimonial home. She pleaded that she has no independent source of income to maintain herself and sought maintenance.

6.3. The Revision petitioner, on the other hand, denied the allegations of cruelty and neglect. His defense was that the respondent voluntarily left the matrimonial home without any sufficient cause. He further contended that he was only working as a teacher in a private college on a meagre salary and that for the past 6 months he left the job and the income attributed to him by the respondent was highly exaggerated.

6.4. It is seen from Ex.P5 series produced by the petitioner/wife that she has paid the school/college fees of the elder son. The receipts substantiate that she has been bearing the educational expenses of the first son from her own resources. On the other hand, Ex.R1 produced by the Revision petitioner/husband reveals that he has paid the college fee of the younger son. Thus, the documentary evidence establishes that both parties have been contributing towards the educational expenses of their respective children.

6.5. However, the fact that the Revision petitioner has paid the educational expenses of the younger son does not absolve him of his statutory obligation to maintain the respondent/wife. Payment of the son's college fees is a parental responsibility and cannot be treated as a substitute

for maintenance payable to the wife. Similarly, the respondent having met the educational expenses of the elder son only demonstrates that she has been constrained to shoulder such responsibility despite her limited means.

6.6. Further, a careful reading of the evidence of RW-1 during cross examination assumes considerable significance. RW1 has categorically admitted that he is working as the Head of the Department (HOD) in a Polytechnic college. This admission belies his plea that he has only a meagre income. Though the Revision petitioner attempted to minimize his income, he has not produced any salary certificate, pay slip or other documentary evidence to substantiate his actual earnings. RW1 has further admitted in his cross examination that, as on the date of his evidence, he was not paying the college fees of either of his two sons. This admission gains importance in the light of Ex.P5 series, which establishes that the petitioner/wife had paid the educational expenses of the elder son. Though the Revision petitioner relied upon Ex.R1 to show that he had paid the college fees of the younger son on an earlier occasion, his subsequent admission that he is no longer bearing the educational expenses of the children clearly indicates that the petitioner/wife has been left to shoulder the financial burden.

6.7. More importantly, RW1 has unequivocally admitted that he is not willing to live with the petitioner/wife because of her attitude. This admission clearly establishes that the Revision petitioner has no intention of resuming cohabitation with the petitioner/wife. Once the husband himself expresses unwillingness to take back his wife and live with her, he cannot simultaneously contend that she is not entitled to maintenance on the ground of desertion. Such a plea is self contradictory and devoid of merit. The admission of RW1 reinforces the petitioner's case that she has been neglected and deprived of maintenance.

6.8. Further, the admissions elicited from RW1 during the course of cross examination belie the defence set up by him. RW1 has admitted that, on the demise of his mother, the wife came to his house and participated in the funeral rites. He has also admitted that when he met with an accident, the petitioner visited him. These admissions clearly indicate that the petitioner/wife had not completely severed her relationship with the Revision petitioner and that she continued to maintain concern for his well-being. Such conduct is inconsistent with the Revision petitioner's plea that the respondent had voluntarily deserted him without any justification.

6.9. RW1 has further admitted that he is the owner of a residential house, that he has let out a portion thereof on rent and is residing in the remaining portion. This admission assumes significance in view of the petitioner's contention that the Revision petitioner has rental income. Though the Revision petitioner attempted to deny his financial capacity, his ownership of the house and receipt of rental income establish that he possesses sufficient means to maintain the petitioner. RW1 during his cross examination has stated that he had not been working for the preceding 6 months. However, except for his bald oral assertion, no documentary evidence has been produced to substantiate the said plea. He has not filed any termination order, resignation letter, relieving order, salary records, bank statements or any other material to establish that he had actually ceased to be employed.

6.10. The learned counsel for the Revision petitioner contended that the wife had changed the address in her Aadhaar card to her parental home, which, according to the Revision petitioner, clearly establishes that she had voluntarily deserted the matrimonial home. But in the course of cross examination PW1, satisfactorily explained that the change of address in the

aadhaar card was made only for the purpose of facilitating the education and admission of her sons, as she was then residing with her parents. The said explanation appears to be natural and probable in the facts and circumstances of the case. A change of address by itself, is not conclusive proof of desertion or of the petitioner/wife intention to permanently sever the marital relationship.

6.11. Further, RW1 has also admitted that his father was a retired police official and that the family owns landed properties. Though the properties standing in the name of his father may not by themselves determine the Revision petitioner's income, the admission reflects the overall financial background of the family and disproves the plea that the Revision petitioner is living in absolute financial hardship.

6.12. The cumulative effect of the these admissions is that the Revision petitioner is a person having sufficient earning capacity and financial resources. At the same time, his own evidence establishes that he is unwilling to resume cohabitation with the petitioner/wife. Therefore, he cannot evade his statutory obligation to maintain his legally wedded wife. The learned trial Magistrate has rightly appreciated these admissions and fixed maintenance at only Rs.7500/- per month, which is just fair and reasonable. The findings of the trial Court are based on proper appreciation of the evidence and do not suffer from any illegality or perversity warranting interference by this Appellate Court.

6.13. The principal contention of the Revision petitioner is that the trial Court has not properly appreciated his financial position and has awarded excessive maintenance. This contention cannot be accepted. The Revision petitioner has not produced any satisfactory documentary evidence before either the trial Court or this appellate Court to establish his actual income or to demonstrate that he is incapable of paying the

maintenance awarded. Mere denial of income without producing salary particulars, bank statements or other reliable evidence, is insufficient to dislodge the findings of the trial Court.

6.14. It is well settled that while determining maintenance, the Court is not expected to insist upon mathematical precision regarding the income of the husband. Maintenance has to be fixed by considering the status of the parties, the reasonable needs of the wife, the earning capacity of the husband and the prevailing cost of living. The object of granting maintenance is to ensure that the wife is able to maintain herself with dignity and is not reduced to destitution or vagrancy.

6.15. In the present case, the maintenance awarded is only Rs.7,500/- per month, which cannot by any standard, be considered exorbitant or excessive in the present economic conditions. On the contrary, the amount awarded is moderate and responsible. The trial Court has also declined the respondent's claim for festival expenses and other additional amounts, thereby balancing the equities between the parties.

6.16. The Revision petitioner has failed to point out any perversity, illegality, misreading of evidence or material irregularity in the appreciation of evidence by the trial Court. The findings recorded by the learned Magistrate are based on the evidence available on record and are supported by sound reasons. An appellate court would not ordinarily interfere with such findings merely because another view is possible.

6.17. According this Court is of the considered opinion that the order passed by the learned Judicial Magistrate does not warrant any interference.

In the result, the revision petition is dismissed. The order passed by the learned Judicial Magistrate No.I, Kallakurichi in MC No.06/2025 dated

10.11.2025 is hereby confirmed. In view of the relationship between the parties there shall be no order as to costs.

Dictated by me to Steno-Typist, typed by her directly in the computer, corrected and pronounced by me in the open court, this the 30th day of June, 2026.

s/d..Irusan Poonguzhali
Principal Sessions Judge,
Kallakurichi.

Copy to
The Judicial Magistrate No.I, Kallakurichi.

Draft/Fair Order
CRP.No.07/2026
Date: 30.06.2026.