

IN THE COURT OF THE DISTRICT AND SESSIONS JUDGE, KARUR

PRESENT:- THIRU K.H.ELAVAZHAGAN, B.Sc., M.L.,

DISTRICT AND SESSIONS JUDGE.

Thursday, the 02nd day of April 2026

Crl.M.P.No.1930/2025

[CNR.No.TNKR-01-004067-2025]

1. Thangavel
2. Arjunan
3. Rangammal

.. Petitioners/ Appellants

/Vs/

M. Rajeshwari

... Respondent/ Respondent

This petition coming on for final hearing before on 23.03.2026 in the presence of Thiru. U.S.Dharmasenan, advocate for the Petitioners and Thiru. R.M.Sivakumar, advocate for the respondent and upon hearing the arguments on the both sides and having stood over for consideration till this day, this Court has passed the following.

ORDER

This petition was filed by the petitioners/appellants under Rule 154 of Criminal Rules of Practice seeking to condone the delay of 43 days in filing the appeal.

2. Brief facts of the petition averments would run is as follows:-

The petitioners are the appellants in the main appeal and the respondent herein is the respondent. The respondent/respondent had filed D.V.C.No.01/2025 before the learned Judicial Magistrate No.II, Kulithalai under the Protection of Women from Domestic Violence Act 2005 against him and other appellants. The petitioners states that the above main petition was allowed by the learned Judicial Magistrate No.II, Kulithalai on 12.09.2025. The petitioners states that they have filed a petition u/s.25(2) of Protection of Women from Domestic Violence Act to set aside the above said order dated 12.09.2025 and the trial Court has posted the above said petition on 10.10.2025 for check and call on. Then the trial Court has returned the petition as “inadmissible” on 10.10.2025 itself. The delay of 43 days in filing the appeal is

neither willful nor wanton. Further, the petitioners states that if this petition is not allowed, they will be affected much. On the other hand, if this petition is allowed, the other side will not be affected by any means. Hence, prays to condone the delay.

3. Brief facts of the counter filed by the respondent/ respondent would run is as follows:-

The respondent/respondent has stated that the petitioner has not assigned any valid reason for the delay stated in the petition. It is an admitted fact that already this respondent filed a petition under Domestic Violence Act, and it ended in favour of this respondent against which, the petitioner has filed an appeal and the same was remanded for re-trial. Thus this is the 2nd round of litigation. The petitioners are well aware that once the case has been disposed on merits, then the option remains for them to file an appeal and not to file a petition to set aside the order passed by the trial Court. But the petitioner, instead of preferring an appeal, wanted to drag on the proceedings and therefore, filed an application before the trial Court which was rightly returned by the learned Judicial Magistrate No.II, Kulithalai. Therefore, the petitioner's claim is unacceptable, particularly, when he has engaged a counsel and has also involved in previous litigation. Hence, prays to dismiss this petition.

4) This Court considered the rival submissions on both sides.

5) The point for consideration is

i) Whether the petitioners have shown sufficient cause to condone the delay?

ii) Whether this application can be allowed or not?

ANSWER TO THE POINT Nos.1 and 2:-

6) **I have perused the materials on record.** The petitioners/appellants/ defacto complainants have preferred this application u/s.154 of Criminal Rules of Practice seeking to condone the delay of 43 days in representing the appeal.

7) The petitioners/appellants have filed the appeal against the judgment passed by the learned Judicial Magistrate No.II, Kulithalai in D.V.C.No.01/2025 dated 12.09.2025, thereby, the learned Judicial Magistrate No.II, Kulithalai has ordered that

the petitioners shall not cause any domestic violence as against the respondent herein, the 1st petitioner herein is directed to return the 15 sovereigns of gold jewels and sreethana articles and other household articles to the respondent herein, the 1st petitioner is directed to allot room to the respondent in his house, failing which the 1st petitioner is directed to give a sum of Rs.3,000/- per month to the respondent as house rent within 5th of every month and further, the 1st petitioner herein shall pay the maintenance amount of Rs.3,000/- for the respondent, a sum of Rs.3,000/- for his male child till he attains majority within 5th of every month. Further, the petitioners 1 to 3 herein shall pay a sum of Rs.1,00,000/- as compensation to the respondent failing which the respondent herein shall take action against the petitioner herein u/s.20(6) and 31 of Cr.P.C.

8) Aggrieved over the above said order, the petitioners/appellants have preferred appeal with delay of 43 days contending that they have filed a petition u/s.25(2) of Protection of Women from Domestic Violence Act to set aside the above said order dated 12.09.2025 and the trial Court has posted the above said petition on 10.10.2025 for check and call on. Then the trial Court has returned the petition as “inadmissible” on 10.10.2025 itself. The above said delay is neither willful nor wanton. Hence, he prays to condone the delay.

9) The respondent/respondent has contended that the petitioners are well aware that once the case has been disposed on merits, then the option remains for them to file an appeal and not to file a petition to set aside the order passed by the trial Court. But the petitioner, instead of preferring an appeal, wanted to drag on the proceedings and therefore, filed an application before the trial Court which was rightly returned by the learned Judicial Magistrate No.II, Kulithalai. Hence, prays to dismiss this petition.

10) It is seen that there was a delay of 43 days in filing the appeal. The document No.2 filed by the petitioners goes to show that the petitioners have filed a petition u/s.25(2) of Protection of Women from Domestic Violence Act to set aside the above said order dated 12.09.2025 and the trial Court has posted the above said

petition on 10.10.2025 for check and call on. Then the trial Court has returned the petition as “inadmissible” on 10.10.2025 itself.

11) It is seen that the almost nearly for one and half months, the petitioners/appellants have belatedly filed this application. The petitioners/appellants have produced the documents in order to show that they have preferred a petition as against the order passed in D.V.C.No.01/2025 before the trial Court. Further, it is seen that the petitioners/appellants have not shown any sufficient cause for the delay of 43 days. However, in the interest of justice inorder to give fair chance to the petitioners/appellants, the delay of 43 days caused by the petitioners/appellants can be condoned. In fine, this petition is allowed. Accordingly, point nos. 1 and 2 are answered.

In the result, this petition is allowed and the delay is condoned.

Dictated to the Steno-typist, typed by her directly on computer on my dictation, corrected and pronounced by me in open Court on the 02nd day of April 2026.

DISTRICT AND SESSIONS JUDGE,
KARUR.