

**IN THE COURT OF ADDITIONAL MAHILA AT MAGISTERIAL LEVEL AT
KARUR**

Present: Tmt. T.Wajitha Thabassm, L.L.M.,
Judicial Magistrate, Additional Mahila Court, Karur

Wednesday, the 18th day of February, 2026

C.M.P No. 142 of 2025

In

D.V.C. No. 44 of 2023

1. Devi

2. Kumaresan

... Petitioners/Respondents 2 & 3

/Vs/

Lavanya

... Respondent/Petitioner

This petition came up for hearing before me on 18.02.2026 in the presence of Mr.R.Ramanathan, Counsel for the petitioners and Mr.K.Karthikeyan, Counsel for the respondent and upon considering both side submissions and on perusal of records and having stood over for consideration till this date, this Court passed the following;

ORDER

Petitioner has filed this petition under Section 5 of Limitation Act seeking to condone the delay of 111 days in filing petition to set aside the exparte order passed against them in the above case.

1. The Respondent filed Domestic Violence case against the Petitioners. The above matter was posted on 26.02.2024 for their appearance and counter and we were set ex-parte due to non filing of counter statement and on 10.11.2023, the 1st Respondent committed suicide due to this Respondent/Petitioner torture and false and

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frivolous case. Our whole family was completely shattered due to this sudden unexpected event and we were performing the last rites and rituals. Due to the mental agony, and 2nd Respondent also being severely affected from thyroid problem frequently took treatment, we were unable to follow up our advocate in the proceedings of the above case. The above matter was ordered ex-parte against us on 25.10.2024. Only due to the aforesaid reasons, we were unable to appear before this Hon'ble Court for proceeding in the case. Hence our absence in proceedings was neither willful nor wanton. Later we learnt that we were set ex-parte and hence we are filling this application to set aside the ex-parte order made against us on 25.10.2024. There is a delay of 111 days in filing the set-aside petition, which is only due to the aforesaid facts and neither willful nor wanton. The Petitioners pray to condone the delay of 111 days in filing this application and thus render justice.

2. The Respondent's counsel endorsed that the petition may be allowed on terms.

3. Point for consideration:

Whether the petition is entitled to be allowed?

4. Heard the submission of both sides. This court finds that the Respondent/Petitioner filed the main case under Domestic Violence Act against this Petitioners. The Petitioners/Respondents have not filed their counter statement and thus they were set exparte and an exparte order dated 25.10.2024 was passed against them. Thereafter, as the petitioners have failed to comply with the order passed against them, the respondent/petitioner initiated proceedings under section 31 of the DV Act in S.T.C.No.2/2025 and the same is pending at the stage of trial. Now, the Petitioners have come up with this petition seeking to set aside the exparte order passed against them. The 1st petitioner, in his affidavit stated on 10.11.2023, his son committed suicide due to this Respondent/Petitioner's torture and frivolous case initiated by her and that his whole family was shattered due to the unexpected demise of

T. K. Kulkarni

his son and that the 1st petitioner also being severely affected from thyroid problem frequently took treatment, and that due to the mental agony they were not able to communicate our counsel. Though the petitioners have not produced any documents to prove their contention, on considering the nature of the case and in order to dispose the case on merits and to ensure audi alteram partem, this court considers this application in a lenient manner. It is important to note that the respondent/petitioner seeks remedy through court of law by waiting for more than 3 years and considering the same this Court is inclined to allow this petition subject to payment of cost of Rs.2,000/- by the Petitioners to the Respondent.

5. In the result, this petition is allowed subject to condition of payment of cost of Rs.2,000/- payable to the Respondent/Petitioner on or before 09.03.2026, failing which this petition shall stand dismissed.

This order is typed and corrected by me in my laptop and pronounced in the open court on 18th day of ~~January~~, 2026.

February

[Signature]
18/2/26

Judicial Magistrate,
Additional Mahila Court, Karur.

* Amended as per order in M.P. NO. 4 /2026

[Signature]
20/2/26

JM, AMC,
Karur.