

TNRM170002652025



IN THE COURT OF THE JUDICIAL MAGISTRATE, THIRUVADANAI.

Present : Thiru. J. Antony Rishandev, B.B.A., L.L.B (Hons).
Judicial Magistrate,
Thiruvadanai.

Dated, Saturday the 7th day of March 2026

Cr.M.P. No. 106/2025

in

D.V.C.No. 4/2021

1. Anitha Juliyad @ Anith (Age 35/2025),
W/o. Arockiyasamy,
D.No.1/4, Valayanvayal Village,
Mangalakudi Post,
Thiruvadanai Tk,
Ramanathapuram Dist.
2. Minor Melvin (15/2025),
S/o. Arockiyasamy,
D.No.1/4, Valayanvayal Village,
Mangalakudi Post,
Thiruvadanai Tk,
Ramanathapuram Dist.

..... Petitioners

/Vs/

Arockiyasamy (Age 49/2025),
S/o. Nithyanantham,
D.No.25A, Sirayampatti Village,
Arimalam Post,
Thirumayam Tk,
Pudukottai Dist.

..... Respondent /1st Respondent

This petition came up for hearing before me on 07.03.2026 in the presence of Advocate for the Petitioner/Victim Thiru.A.Paul Melkuier and Respondent /1st Respondent Thiru.K.R.Jegan upon perusing the documents and hearing, both sides this Court makes the following,

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ORDER

This petition was filed by the petitioners herein seeking to direct the respondent herein to pay the outstanding maintenance amount to the petitioners as per order in DVC 04/2021, dated 01/12/2023.

Brief Facts of the Petition :

The Petitioners states that the 1st Petitioner is the wife of the respondent and the 2nd petitioner is the child born out of the marriage between the 1st petitioner and the respondent. The petitioners states that the respondent has been directed to pay maintenance amount of Rs.4500 /- to the 1st petitioner and Rs.4000/- to the second petitioner herein before the 7th day of every month herein as per Order in DVC 04/2021. Further states that the respondent has also been directed to pay the aforesaid maintenance amount to each of the petitioners in entirety calculated from the date of filing of DVC 04/2021 till its disposal on 01/12/2023 within three months from the date of order on 01/12/2023. The Petitioners states that the Respondent has failed to pay the maintenance amount of Rs. 3,40,000/- to the petitioners calculated from the date of filing of DVC 04/2021 till the filing of this Cr.M.P.No. 106/2025 on 16/12/2024. hence seeks this court to pass suitable orders as against the respondent.

Notice and Response:

After this petition was filed, notice was issued to the respondent which was served and the respondent filed a counter stating the petitioner has to seek remedy only U/s.31 r/w Sec 32(2) of the Domestic Violence Act for breach of maintenance order passed in a Domestic Violence Case within 1 year from the date of order. Further, stated that this present petition filed by the petitioners is barred by limitation and not maintainable, hence seeks to dismiss this petition.

Discussion and Decision:

It is a well settled principle that *“mere non-mentioning of an correct provision is not fatal to the application if the power to pass such an order is available with the court”*. In this case on hand, this court very well has jurisdiction to try and dispose this petition. Hence, the contention of the respondent that this petition should be dismissed since, the petitioners have not mentioned the section under which they claim relief need not be considered in this case.

The Claim of the petitioners is found to be correct upon perusing the order in DVC 04/2021 dated 01/12/2023. This Petition was filed by the petitioners herein on 16/12/2024 and upon perusing the order in DVC 04/2021, it is evident that 3 months was granted to the respondent herein to give the maintenance amount calculated from the date of filing of

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DVC 04/2021 on 04/08/2021 till its disposal on 01/12/2023. Therefore, it is evident that the maintenance amount calculated during period of pendency of DVC 04/2021 has become due on 01/03/2024. Therefore, it is evident that this petition was filed within 1 year from the date of due of maintenance amount calculated during the pendency of DVC 04/2021.

Further, Rule 6(5) of The Protection Of Women From Domestic Violence Rules, 2006 reads as follows, **“The applications under section 12 shall be dealt with and the orders enforced in the same manner laid down under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974).”** Therefore, it is evident that this court can proceed against the respondent u/s. 144 BNSS for failure to pay the maintenance amount in DVC 04/2021. Further, since this petition was filed on 16/12/2024 distress warrant cannot be issued for outstanding maintenance amount for the month of December, 2023 , since the proviso clause of S.144(3) BNSS reads as follows, **“Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due”** and it is clear that this petition was not filed within 1 year from the date of due of maintenance amount for the month of December, 2023.

Therefore, in the interests of justice, this court makes the following order:

The Respondent is hereby directed to pay the outstanding maintenance amount of Rs. 1,75,500/- to the 1st petitioner and Rs.1,56,000/- to the 2nd petitioner herein calculated during the period of pendency of DVC 04/2021, and after its disposal till the filing of this petition excluding the month of December, 2023 as per the order made in DVC 04/2021 within a period of one month from the date of this order, failing which a distress warrant will be executed against the respondent and he will be arrested and sentenced to imprisonment for a period of 6 months or until the repayment of the said amount.

Dictated by me to the Typist and he typed in the Computer and Corrected and Pronounced by me in the Open Court on 7th day of March 2026.

Judicial Magistrate,
Thiruvadanai.