

IN THE COURT OF THE JUDICIAL MAGISTRATE No.I, METTUR

Present : N.Gopalakrishnan, B.Sc, B.L., Judicial Magistrate No.I, Mettur.

Saturday, the 18th day of April, 2026

Crl. M.P No. 199 of 2025

-in-

M.C.10/2007

Crl. M.P. No. 198 of 2025 (old Crl. M.P. No. 3252/2022)

Kannan (46) S/o Kumarasamy

.... Petitioner / Respondent

//Vs//

1) Kavitha(45) W/o Kannan

2) Kameswaran(20) S/o Kannan

...Respondents/Petitioners

This petition filed on 22.04.2025 and came upon today 18.04.2026, and Advocate Mr.A.Murugan appeared for the Petitioner and Advocate Mr.L.GanapathySubramaniyan appeared for the Respondent and which are stood over for the consideration till today, this Court delivers the following,

ORDER

1. Heard both sides. Records perused.
2. This petition has been filed by the petitioner on 22.04.2025, who is the respondent in the collection of arrears petition in Crl. M.P. No. 3252 of 2022 (now eCourt Crl. M.P. 198 of 2025) and also in a main petition in M.C. No. 10 of 2007, seeking cancellation of maintenance insofar as the second respondent is concerned. It is pertinent to note that the aforesaid main Crl. M.P. 198 of 2025 closed on satisfaction on 03.11.2025 itself.

3. At the outset, it is seen that the present petition has been filed in a proceeding under Section 128 Cr.P.C, without mentioning any specific legal provisions. However, the relief sought by the petitioner is for the cancellation of the maintenance granted to the second respondent. It is well settled that mere quoting of a wrong provision is not fatal, and the Court must consider the substance of the relief sought. Since the present petition essentially seeks alteration/cancellation of maintenance, this Court treats the same as a petition under Section 127 Cr.P.C., and proceeds to decide the matter on merits. Both parties have been heard fully on this aspect, and no prejudice is caused to either side.

4. Point for Determination: Whether the petitioner has established a sufficient change in circumstances to warrant cancellation of the maintenance granted to the second respondent?

5. The petitioner states that by order dated 17.09.2008 in M.C. No. 10 of 2007, this Court directed payment of maintenance to the first respondent (wife Kavitha) and the second respondent (son Kameswaran).

6. It is the contention of the petitioner that the second respondent has now attained the age of 24 years, completed his education, and is employed in a private company at Chennai, earning sufficient income. It is further contended that despite such circumstances, the second respondent continues to receive maintenance by suppressing material facts. The

petitioner has also pleaded that he is suffering from ill-health, has no independent income, and is undergoing financial hardship.

7. Per contra, the respondents contend that as per the order of the Hon'ble Additional District Court dated 28.06.2022, maintenance is payable to the second respondent until he completes his education and secures employment. It is further contended that in the absence of strong materials on the part of the petitioner, the petitioner continues to be entitled to maintenance. It is also submitted that the execution petition in Crl. M.P. No. 198 of 2025 relates only to the recovery of arrears up to the year 2022.
8. This Court has carefully considered the rival submissions.
9. It is not in dispute that the earlier order of the Hon'ble Additional District Court dated 28.06.2022 directs continuation of maintenance to the second respondent until he completes his education and secures employment. The said finding binds the parties unless there is a proven change in circumstances.
10. The burden squarely lies on the petitioner to establish that the second respondent has secured employment and is earning sufficient income to maintain himself independently. However, except for making a bald allegation, the petitioner has not produced any documentary evidence to

substantiate the same. No particulars, such as the name of the employer, place of employment, nature of work, or quantum of income, have been furnished.

11. In the absence of such material evidence, this Court is unable to conclude that there is a material change in circumstances warranting cancellation of maintenance.

12. At the same time, this Court cannot lose sight of the possibility that the second respondent, having attained majority, may have completed his education and secured employment, though, due to the petitioner's inability, no documentary proof is presently placed before this Court. In order to arrive at a just and proper conclusion, further clarification is required.

In the result, this Court finds that the prayer of the petitioner for cancellation of maintenance insofar as the second respondent is concerned cannot be granted at this stage, in the absence of proof of a change in circumstances.

Thereby, the second respondent, namely Kameswaran, is directed to file an affidavit within 15 days from the date of receipt of this order, stating:

1. Whether he has completed his education;
2. Whether he is presently employed;

3. If employed, the date of commencement of employment;
4. The name and address of the employer; and
5. The quantum of income earned by him to date, with supporting documents.

The matter is posted on 04.05.2026 for the filing of such an affidavit and for further consideration.

This order was directly typewritten by me on a desktop and verified, corrected, and signed by me, and pronounced in open Court on this **18th April 2026.**

Judicial Magistrate No.I, Mettur.