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IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE, THENI.

**Present : Thiru. A. SARAVANAKUMAR, B.A., B.L.,
Principal Sessions Judge, Theni.**

Monday, this the 06th day of July - 2026

M.P. No.01/2026 in Crl.A. No.05/2026

C.N.R. No.TNTH01-000058-2026

Ramarajan

S/o Manikandan

...Petitioner/Appellant/1st Respondent

-Vs -

1. Gurupriya

W/o Ramarajan

2. Minor Swathista Devi

3. Minor Dharshika Devi

D/o Ramarajan

Rep. through 1st respondent as

their Mother

...Respondents/Respondents/Complainants

This petition coming on this day for final hearing before me in the presence of Thiru. S. Siva Ilayaraja, Advocate for the Petitioner and Thiru. P. Arasan, for the Respondents, after hearing both sides and perusing the records, this Court delivers the following :

O R D E R

This is an petition filed by the Petitioner/Appellant/1st Respondent praying to stay the order passed by the learned Judicial Magistrate,

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Uthamapalayam in D.V.C. No.46/2024 dated 12.11.2025, till the disposal of the appeal.

2. The facts stated in the petition in brief is as follows:-

The petitioner is the appellant and 1st respondent in the DV Petition. The appellant has preferred the present appeal challenging the order passed in D.V.C. No.46 of 2024 dated 12.11.2025 on the file of the learned Judicial Magistrate, Uthamapalayam, whereby the appellant was directed to pay maintenance at the rate of Rs.5,000/- per month each to respondents 2 and 3 from the date of the petition, i.e., 08.11.2024, to clear the arrears within a period of three months, and further to pay costs of Rs.10,000/- to the 1st respondent. The trial Court passed the impugned order without properly appreciating the oral and documentary evidence available on record. According to the appellant, the 1st respondent has been residing separately from the year 2020 onwards and, despite repeated efforts made by the appellant to resume cohabitation, she refused to join him. It was contended that the 1st respondent had neglected the appellant and chosen to live separately. The trial Court had recorded findings regarding the alleged adulterous and immoral relationship of the 1st respondent with certain individuals, namely Raja and Ramasamy, based on the evidence adduced by the appellant. Despite such findings, the trial Court proceeded to award maintenance to respondents 2 and 3 at the rate of Rs.5,000/- per month

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each. According to the appellant, the said amount is excessive and beyond his financial capacity, particularly considering the economic background of the parties.

It was further submitted that both parties belong to a poor and economically weaker section of society and that respondents 2 and 3 are studying in a Government School. The learned counsel argued that the children do not incur substantial educational expenses and that the maintenance awarded is disproportionate to the actual requirements of the children. It was also contended that the appellant is willing and ready to take care of the children and that their continued custody with the 1st respondent may not be in their welfare and best interests. The learned counsel further submitted that the 1st respondent herself had stated in her assets and liabilities statement that she was earning approximately Rs.8,000/- per month as an agricultural coolie. However, according to the appellant, the said income and earning capacity of the 1st respondent were not taken into consideration by the trial Court while fixing the maintenance amount. It was argued that there was no sufficient material before the trial Court to justify awarding maintenance at the rate of Rs.5,000/- per month to each child.

Further, the trial Court failed to properly appreciate the appellant's evidence regarding his income and erroneously assumed his monthly income to

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be Rs.20,000/-. It was submitted that the appellant is working only as a TV mechanic, that his earnings are meagre, uncertain and not fixed in nature, and that he has no substantial movable or immovable properties. Therefore, according to the appellant, the maintenance awarded is onerous, excessive and beyond his means. The 1st respondent had suppressed material particulars regarding her employment and income. According to the appellant, apart from undertaking agricultural coolie work, the 1st respondent is employed in a garment establishment at Theni and is earning approximately Rs.20,000/- per month.

However, the trial Court did not ascertain her actual income and failed to consider the same while determining the maintenance payable by the appellant. The 1st respondent is denying the appellant custody and visitation rights in respect of respondents 2 and 3 and that the appellant is deeply concerned about their welfare, upbringing and future. It was contended that the trial Court failed to adequately consider all these aspects while passing the impugned order. On the above grounds, the petitioner prays for stay of all further proceedings pursuant to the order passed in D.V.C. No.46 of 2024 dated 12.11.2025 on the file of the learned Judicial Magistrate, Uthamapalayam, pending disposal of the appeal and further prayed for setting aside the said order by allowing the appeal.



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3. The facts stated in the counter filed by the respondents in brief is as follows:-

The respondents opposed the petition and submitted that the petition is devoid of merits and is not maintainable either in law or on facts and is therefore liable to be dismissed. It is submitted that the appellant has filed the present petition seeking stay of the order passed by the learned Judicial Magistrate, Uthamapalayam, in D.V.C. No.46 of 2024 dated 12.11.2025. According to the respondents, the petition is not legally sustainable and, except to the extent specifically admitted, all the averments and allegations made by the appellant are denied as false and baseless. The averments contained in paragraphs 1 to 8 of the petition are wholly false and contrary to the records. It was contended that the learned Judicial Magistrate had not granted any relief or maintenance in favour of the 1st respondent under the impugned order. On the contrary, the order directs the appellant to pay maintenance only to respondents 2 and 3, who are the children of the appellant, at the rate of Rs.5,000/- per month each. The learned counsel further submitted that the appellant is employed in Reliance Company and is earning a monthly income of approximately Rs.50,000/-. Therefore, according to the respondents, the appellant possesses sufficient financial means to comply with the maintenance order passed by the trial Court.

It was thus contended that there are no valid grounds warranting stay of the
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order passed by the learned Judicial Magistrate and the petition is liable to be dismissed.

4. The point for consideration is:-

(1) Whether the petition filed by the Petitioner/Appellant seeking to stay the order passed by the learned Judicial Magistrate, Uthamapalayam in D.V.C. No.46 of 2024 dated 12.11.2025 pending disposal of the appeal, is liable to be allowed or not?

5. No oral or documentary evidence has been adduced on both sides.

Point:-

6. This is an application filed seeking for stay of the order passed by the learned Judicial Magistrate, Uthamapalayam in D.V.C. No.46/2024 dated 12.11.2025.

7. The petitioner is the appellant in C.A. No.05 of 2026 and the respondent are the appeal respondents therein. As per the averment stated in the petition, that the learned Judicial Magistrate, Uthamapalayam, has not considered the entire materials and passed an erroneous order of maintenance. It is submitted that the petitioner has got a prima facie case in the appeal, and therefore, the stay may be granted.

8. In answer to the said contentions, the appeal respondents has filed a detailed counter wherein it is stated that the trial court has properly understood
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the facts, appreciated the evidence and also came to the correct conclusion in passing of order of maintenance to the 2nd and 3rd respondents. Moreover, the petitioner was earning a sum of Rs.50,000/- by working in a private company. He has sufficient means to pay the maintenance. While so, the learned counsel for the respondent submits that the petition may be dismissed.

9. This court has considered the submissions of both sides. When the case is taken up for enquiry, after filing a counter, there is no representation for the petitioner. Therefore, this court has no other option except to proceed with the case with merits, without hearing the petitioner.

10. As stated supra, it is noticed that the learned Judicial Magistrate, Uthamapalayam, has passed an order of maintenance as against the 2nd and 3rd respondents. Though the petitioner has stated that he has a prima facie case in the main petition, he has not made any undertaking to pay atleast a portion of the maintenance amount and seek operation of stay.

11. However, since the petitioner has submitted that he has got a prima facie case, this court is of the view that an opportunity may be given to the petitioner to contest the appeal. At the same time, since the 2nd and 3rd respondents are ordered for their maintenance, this court is of the view that while granting stay, a portion of the maintenance may be ordered to be deposited into the court. Accordingly, the petition is allowed.

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In the result, the petition is allowed. The order passed by the learned Judicial Magistrate, Uthamapalayam, in D.V.C. No.46 of 2024 dated 12.11.2025 is stayed on the following condition:-

1) The petitioner / appellant shall deposit 50% of the maintenance amount due as per the order of the learned Judicial Magistrate, Uthamapalayam, before the trial court within three weeks from the date of this order.

Dictated to the Steno-Typist, taken by him in shorthand, transcribed and typed by him, corrected and pronounced by me, in the open court, this the 06th day of July - 2026.

**Principal Sessions Judge,
Theni.**

Copy to:-

The Judicial Magistrate, Uthamapalayam.

Principal Sessions Court,
Theni.
Copy of Order in
M.P. No.01/2026 in
C.A. No.05/2026
Dated : 06.07.2026.