



**IN THE COURT OF III ADDITIONAL DISTRICT & SESSIONS JUDGE,
DHARAPURAM.**

PRESENT: Thiru.C.M.SARAVANAN, B.A., L.L.M.,

III Additional District & Sessions Judge, Dharapuram

Monday, the 09th day of March, 2026

CRLR. No.21 of 2024

[CNR No.TNTI030008912024]

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| Name of the Trial Court | : | The Judicial Magistrate, Kangayam |
| Trial Court Case Number | : | CrI.M.P.No.7775/2023 in M.C.No.08/2023 |
| Criminal Revision Number | : | C.R.L.R.No.21/2024 |
| Name of the Revision petitioner / respondent | : | S.Baburam Eswar S/o.Suresh Kumar |
| Name of the Respondents / Petitioners | : | 1.V.Swetha,W/o.S.Baburam Eswar 2.Minor B.Rudhrashi, D/o.S.Baburam Eswar |
| Order of the trial Court | : | 11.01.2024 In the result, this petition is allowed. The respondents 1 and 2 are hereby directed to pay to the petitioners a sum of ₹7,500/- (Rupees Seven Thousand Five Hundred only) each, totalling ₹15,000/- (Rupees Fifteen Thousand only), as interim maintenance, by crediting the same to the bank account of the petitioners, either directly or |

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| | through bank transfer or demand draft, on or before the 5 th day of every English calendar month. The said amount shall be calculated and paid with effect from the date of filing of this petition, i.e., 30.11.2023, and shall continue to be paid until the disposal of the main petition. Considering the relationship between the parties to the proceedings, there shall be no order as to costs. |
| Order of the Appellate Court | : In the result, with the above directions Criminal revision petition is disposed of. No costs. |

This Criminal Revision Petition came up for final hearing on 07.11.2025 before me and either the petitioner or the Advocate Thiru.S.Anguraj, even though on record did not appeared before this court. Hence after hearing Thiru.P.Vadivelsamy, Advocate for the respondents and perusing the documents and upon consideration till this date, this court delivered the following:

ORDER

The Criminal Revision Petition is filed against the impugned order of the learned Judicial Magistrate, Kangayam in CrI.M.P.No.7775/2023 in M.C.No.08/2023, dated 11.01.2024, wherein the learned Judicial Magistrate had allowed the petition filed for Having dissatisfied by the order passed by the learned Judicial Magistrate, Kangayam, the present criminal revision has been

filed.

2. The case of the petitioner is that seeking maintenance from the respondent by invoking Section 125(1) of Cr.P.C. The petition was taken on file of Judicial Magistrate, Kangayam in CrI.M.P.No.7775 of 2023 in M.C.No.08/2023. After hearing both side, the Judicial Magistrate, Kangayam passed an order on 11.01.2024 by granting the 1st petitioner a monthly interim maintenance amount of Rs. 7,500/- and the 2nd petitioner a monthly interim maintenance amount of Rs. 7,500/-.

3. This Revision is filed in the year 2024. From the date of filing of the petition, both the petitioner and the respondents were not appeared before this court for several hearings, and there is no representation on behalf of the petitioner and the respondent. Since, there is no progress in the proceedings due to the absence of both the parties, this court constrained to pass orders on available records.

4. The facts stated in the petition in CrI.M.P.No.7775 of 2023 in M.C.No. 8/2023 is as follows :

The averments of the petition before the trial court is that the marriage between and the petitioner and the respondent took place on 30.10.2020 at RPS Mahal Vellakovil. The marriage was registered on 16.12.2020 at Sub Registrar Office at Vellakovil. The marriage expenses were borne by the parents of the 1st

respondent herein. At the time of marriage, the 1st respondent was given 40 sovereigns of gold ornaments, silver ornaments value up to Rs.1,00,000/- and household articles. After the marriage, both the petitioner and the respondents were living together as joint family. After the marriage, since the sister of the revision petitioner, and the mother committed domestic violence against the 1st respondent, and also make some dowry harassment, from 14.04.2021, the 1st respondent was living separately. Even after the birth of the 2nd respondent, the revision petitioner did not come to meet the 2nd respondent. When the parents of the 1st respondent attempted to make amicable settlement between the petitioner, and the respondent, the revision petitioner was not intended to joint together with the 1st respondent, and he has no intention to live with the 1st respondent herein. The 1st respondent possessed movable and immovable properties value about lacks together, and the revision petitioner is working as team manager in health care company at Chennai and is earning a sum of Rs.1,00,000/- per month. Whereas the 1st respondent has no properties in her name and there is no permanent income. The revision petitioner being the husband of the 1st respondent, and is liable to maintain the respondents, and hence he shall be directed to pay a sum of Rs.20,000/- per month to each petitioners for their food and dress and shelter educational and medical expenses.

5. The facts stated in the counter in CrI.M.P.No.7775 of 2023 in M.C.No.08/2023 is as follows :

The marriage between the petitioner and the respondent and the birth of the 2nd respondent is admitted. It is false to state that when they were lived together, the 1st respondent was subjected to cruelty and dowry harassment by the revision petitioner. It is also false to state that the revision petitioner did not look after the 2nd respondent herein. The revision petitioner was always ready and willing to join with the 1st respondent herein. Even though, the common men advised the 1st respondent to live along with the revision petitioner herein, without any valid reason the 1st respondent living along with her parents. The revision petitioner has no properties either movable or immovable. The revision petitioner is earning only a sum of Rs.40,000/-, and after repayment of loan, he has a sum of Rs.2,500/-. The revision petitioner has paid the semester charges for the 1st respondent for her B.ED course on 30.01.2023, and also he has paid a sum of Rs.30,000/- on 14.09.2023 for the project training expenses of the 1st respondent. The 1st respondent has given false information regarding the income of the revision petitioner herein, and hence the petition is to be dismissed.

6. The trial court has allowed the above petition in Crl.M.P.No.7775 of 2023 in M.C.No.08/2023, dated 11.01.2024. Aggrieved by the above said Order, the revision petitioner / respondent has preferred a criminal revision petition before this court u/s. 397 of Cr.P.C., and same was taken on file as CRLR.No.21/2024 for disposal in accordance with law.

7. The grounds of revision petition in CRLR.No.21/2024 are as follows:

The order passed by the Trial court is against law, weight of evidence and probabilities of the case. The lower court has misconceived the real issues, which is involved in this case, Trial court had deviated the crux of the matter and gave finding with regard to the step taken by the revision petitioner for re-union. The Trial court failed to see that the revision 1st respondent alone frequently picked up quarrels with the revision petitioner and there is no fault of the revision petitioner. The trial court failed to see that the 1st respondent who left the matrimonial home along with 2nd respondent had never returned back in order to lead the matrimonial life with the petitioner. The Trial court failed to see that there was no cruelty on the part of the petitioner that is why, no complaint was preferred against the petitioner. The lower court had failed to note that the 1st respondent had sufficient means and income to maintain the 2nd respondent. The lower court also failed to note that the 1st respondent's family doing a business computer and earning more money. The lower court failed to

note that the respondent failed to prove the pre-conditions which required for claiming maintenance under section 125 Cr.P.C. The lower court failed to note that there is no concrete evidence to prove that the petitioner had deserted the respondent. It is only the respondent who had deserted the petitioner and living separately with 2nd respondent. The lower court failed to note that as per section 125(4) of Cr.P.C no wife shall be entitle to receive the maintenance if she is refuses to live with her husband. The lower court failed to see that the quantum fixed by the lower court is the highly imaginary one and unacceptable and consequently the finding of the lower court is along wrong. He was working at Chennai, worked as Health care Assistant in Sagility company and earned monthly salary from Rs.40,000/- to Rs.43,000/- out of which he have to repay the car loan, to and expenses from Coimbatore to Chennai and bear his lively hood. So that only 3,000/- alone remains out of his monthly Salary. The lower court failed to see that the contention raised in the counter statement are true and lower court without go through the contention erroneously come to the conclusion that the revision petitioner is liable to pay maintenance to the respondent. It is therefore prayed that this court may kindly be pleased to pass an order to allow this Revision Petition and set aside the order passed in favour of Respondents by the learned Judicial Magistrate of Kangayam and pass suitable orders may deem fit and proper it the circumstances of the case.

8. The point for determination are as follows:-

1) Whether the interim maintenance ordered by the trial court is justifiable and whether the quantum of maintenance ordered by the trial court requires revision as claimed by the petitioner in CRLR.No.21/2024 ?

2) Whether the grounds raised by the respondent in the revision petition filed by him in CRLR.No.21/2024 is to be considered and whether the order passed by the Judicial Magistrate in the maintenance is to be set aside in the revision?

9. Heard both sides. The learned trial court after considering the averments and the arguments of both parties, has decided that the revision petitioner shall pay a sum of Rs.7,500/- each to both the petitioners as interim maintenance.

10. A Careful perusal of the order passed by the trial court, the relationship between the petitioner and the respondents are admitted by both the parties. The trial court held that there was no evidences adduced to show that the 1st respondent is living separately without any valid reason. The revision petitioner also did not file any concrete evidence to show that the petitioner is having sufficient means to maintain themselves. Therefore, being the husband, the trial court directed the revision petitioner to pay a sum of Rs.7,500/- each to the 1st and 2nd respondent herein as the interim maintenance.

11.A careful perusal of the records, admittedly no documents were filed by both the parties. The Hon'ble Supreme court of India in, **Crl.A.No.730/2020(Arising out of SLP(Crl).No. In 9503/2018 in Rajnesh Vs. Neha** and others held that,

(b) payment of interim maintenance,

“ The affidavit of disclosure of Assets and liabilities annexed as Enclosures I, II and III of this judgment as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court/District Court/Magistrates court as the case may be throughout the country.

12. Therefore, the Hon'ble Apex court categorically directed while deciding a interim maintenance application, the affidavit of assets and liabilities of both the parties to be considered by the courts all over the country.

13. Here in the case on hand, the affidavit of assets and liabilities of both the parties did not filed before the trial court. Therefore, this court is in a view that the trial court did not followed the direction of the Hon'ble Supreme Court of India, while deciding the interim maintenance applications. Therefore, the order passed by the learned Judicial Magistrate, Kangayam is defective and the point 1, 2 answered accordingly.

14. Therefore the impugned order passed in Cr.M.P. No. 7775/2023 in M.C. No.8/2023, dated 11.01.2024 is hereby set aside. The matter is ordered to be remand back to the learned Judicial Magistrate, Kangayam to follow the directions of the Hon'ble Supreme Court and directed to get the affidavits of assets and liabilities of both the parties and shall quantify the interim maintenance.

With the above directions Criminal revision petition is disposed of. No costs.

Dictated to Steno-Typist, taken down by her in short-hand, transcribed and computerized by her and corrected by me in computer and pronounced by me in the Open Court on this the **09th day of March, 2026.**

III Additional District & Sessions Judge,
Dharapuram.

Annexures:- Nil on either side.

III Additional District & Sessions Judge,
Dharapuram.

Copy to :

The Judicial Magistrate Court, Kangayam.

Fair/Draft Order in
CRLR.No.21/2024
Date: 09.03.2026.

09/03/2026

III ADJ, DPM