

In the Court of Chief Judicial Magistrate, Thanjavur @ Kumbakonam

Present: Thiru.G.MANIKANDARAJA, B.A., B.L.,
Chief Judicial Magistrate (FAC)

Thursday, the 10th day of July, 2025

CrI.M.P.No.394/2024 in Maintenance Case No.3/2021
(CNR No.TNTJ18-000833-2024)

Sumathi, Age 46/2023,
W/o.Kamaraj

... Petitioner

/ Vs /

Kamaraj, Age 45/2023,
S/o.Ganesan

... Respondent

This petition is coming before me on 01.07.2025 for hearing, in the presence of Mr.S.Rajasekaran, Counsel for the Petitioner and Mr.R.Mariappan, Counsel for the Respondent and counter not filed on the side of the respondent, respondent called absent and set exparte and upon hearing the argument of petitioner side and upon perusing the case records and having stood over for consideration till this date, this Court pronounced the following

ORDER

This petition is filed under Section 125(3) Cr.P.C., to enforce the Order passed by this Court in M.C. No.3/2021 on 16.08.2022 for arrears of Maintenance Amount of Rs.44,000/- for the period from 07.03.2023 to 07.02.2024 i.e. 11 months.

2. The Brief averments of the Petition runs as:

The Petitioner filed Maintenance Case as M.C. No.3/2021 and the same was disposed by this Court on 16.08.2022 by directing the respondent to pay a sum of

Rs.4,000/- per month as monthly maintenance to the Petitioner from the date of filing of main petition. The respondent has failed to pay maintenance amount and the petitioner has filed this petition to execute the said order. The respondent has not paid any amount till this date towards maintenance. The petitioner is struggling for their basic needs. The respondent is wantonly refused to pay the amount to the petitioner. The respondent has got sufficient income to pay the maintenance, but the respondent has not paid the maintenance amount as per the order of this court. The petitioner filed this petition to enforce the order of maintenance for the period from 07.03.2023 to 07.02.2024 i.e. 11 months for a sum of Rs.44,000/-.

3. In this petition, notice was issued to the respondent and he appeared through his advocate and paid a sum of Rs.4,000/- on 02.12.2024, Rs.4,000/- on 10.02.2025, Rs.5,000/- paid on 03.03.2025, Rs.4,000/- paid on 08.04.2025, Rs.4,000/- paid on 05.05.2025 Totally Rs.21,000/- paid to the petitioner, thereafter he had not paid any amount and the respondent also not appeared before this court, hence the respondent was set exparte by this court. The Petitioner examined herself as PW1 and deposed about the means of the respondent as well as non-compliance of Order by the respondent.

4. POINT FOR CONSIDERATION :

Whether this petition to enforce order passed in the Petition in MC No.3/2021 dated 16.08.2022 can be allowed ?

The Petitioner was examined as PW1. Respondent was set exparte.

Solutions :

5. Heard the petitioner counsel. Case records are carefully perused and considered. This petition is filed under section 125(3) of Cr.P.C., to enforce the maintenance order dated 16.08.2022 and claiming maintenance arrears amount of Rs.44,000/- from 07.03.2023 to 07.02.2024 for 11 months.

6. Considering the factual circumstances as well as default in payment of maintenance by the respondent, this Court is inclined to proceed further in terms of section 125(3) Cr.P.C.

7. During the enquiry, the Petitioner examined as PW1 and deposed that the respondent having sufficient means and income to pay the monthly maintenance to discharge his liabilities. The Learned Counsel appearing for the Petitioner stated that petitioner being a woman and the petitioner is suffering lot without any amount to meet her basic needs. The petitioner stated that the respondent has not paid the arrears of maintenance amount of Rs.44,000/-. As per records, the arrear maintenance amount for the petitioner is Rs.44,000/- out of which the respondent paid a sum of Rs.21,000/- which is towards the maintenance amount for 5 months 8 days. The respondent has to paid a sum of Rs.23,000/- which is 5 months 22 days maintenance amount.

8. As per section 125(3) Cr.P.C., if any person fails to pay the monthly maintenance by way breach of the order passed by the Court without any sufficient reason, the Court shall issue a warrant for levying the amount due in the manner

provided for levying fines, and may sentence such person, for the whole or any part of each month. In this case, the respondent has not chosen to file either counter or payment as per the Order passed by this Court in the Maintenance Case. The petitioner proved that the respondent has sufficient means to pay the maintenance. But the respondent fails to prove that he has not means to pay the arrears. It shows that the respondent committed a breach of Order intentionally knowing its consequences. As per records, the respondent has got sufficient means to pay the maintenance, but he is refusing to pay the same. The arrear maintenance amount for the petitioner is Rs.44,000/- out of which the respondent paid a sum of Rs.21,000/- which is towards the maintenance amount for 5 months 8 days. The respondent has to paid a sum of Rs.23,000/- which is 5 months 22 days maintenance amount to the petitioner in this petition. As such, this Court inclined to issue warrant of levying Rs.23,000/- as against the respondent, in the absence of payment whole or any part thereof, the respondent shall undergo Simple Imprisonment for a period of 1 for one month default, totally 5 months 22 days Simple imprisonment for 5 months 22 days default of Rs.23,000/- being the 5 months 22 days maintenance arrears to the Petitioner.

9. In the result, issue Distress warrant (vide Form No.18) levying arrears of maintenance of Rs.23,000/- for 5 months 22 days default and in the event of non payment of arrears of maintenance, the Respondent shall undergo Simple Imprisonment for a period of 5 months 22 days for the default period or until payment if sooner made. Issue NBW as against Respondent to secure his presence to

comply the Order passed under section 125(3) Cr.P.C., on payment of process fees.

Call on 01-08-2025.

*//Dictated by me directly to the Steno-Typist, typed by him in the computer,
corrected and pronounced by me in the open court on the 10th day of July, 2025.//*

Chief Judicial Magistrate (FAC),
Thanjavur at Kumbakonam.

Petitioner side witness:	
1.	Sumathi (Petitioner No.1)
Petitioner side Exhibit: Nil	

Chief Judicial Magistrate (FAC),
Thanjavur at Kumbakonam.