



IN THE COURT OF THE FIRST ADDITIONAL DISTRICT AND SESSIONS
COURT, TIRUNELVELI.

PRESENT: Thiru. D. SELVAM, M.L.
1st Additional District & Sessions Judge,
Tirunelveli.

Friday, the 5th day of June 2026.

C.A. No: 81/2025
(CNR No. TNTL010056342025)

Name of the court from which the Criminal Appeal is preferred	:	Judicial Magistrate Court No. V, Tirunelveli.
Trial Court Case No.	:	Cr.M.P.No.10152/2024 in DVC No. 9/2024
Criminal Appeal No.	:	C.A. No. 81/2025
Name of the Appellant	:	Sheik Mohamed Ali
Name of the Respondent	:	1. S. Mohamed Fathu 2. Minor S. Mohamed Alhaj 3. Minor S. Raahina 4. Minor S. Ayisha Minor 2 to 4 respondents represented through their mother/1 st respondent
Date of Order	:	26.05.2025
Result of the Trial Court	:	The learned Judicial Magistrate No. V, Tirunelveli pronounced the order that the petition is partially allowed, and the respondent is directed to pay the first installment of tuition fees to the 1 st petitioner and the 2 nd to 4 th petitioners is Rs. 61,000/- and the subsequent tuition fees are Rs. 61,000 x 2 = 1,22,000/-, total of Rs. 1,83,000/-, within two



		months from the date of issuance of the order. Further, the respondent is directed to pay a sum of Rs. 4,000/- to the 1 st petitioner as interim maintenance and Rs. 2,500/- each to the 2 nd to 4 th petitioners as interim maintenance on the 5 th day of every English month from the date of filing of the petition, either directly or through bank accounts. No costs.
Whether the Criminal Appeal is allowed, or modified, or confirmed.	:	In the result, the criminal appeal is dismissed and the order dated 26.05.2025 passed by the learned Judicial Magistrate Court No. V, Tirunelveli in Cr.M.P. No. 10152/2024 in DVC No. 9/2024 is hereby confirmed.
Date of, or on which		
1. Presentation	:	09.07.2025
2. Filing	:	01.11.2025
3.Last Hearing	:	21.04.2026
4. Judgment	:	05.06.2026

This Criminal Appeal came before this court on 21.04.2026 for a final hearing in the presence of Thiru. T. Arunkumaran, Advocate for the Appellant and Thiru. R. Ramakrishnan, Advocate for the Respondents, and upon hearing the arguments of both sides and on perusing the records and having stood over till this date for consideration, this court delivers the following ...

JUDGMENT



1. Prayer in Appeal:-

The Appeal filed by the appellant under Section 29 of the Domestic Violence Act, to set aside the order passed against him by the Judicial Magistrate Court No. V, Tirunelveli, in Crl.M.P. No. 10152/2024 in DVC. No. 9/2024, dated: 26.05.2025.

2. Prayer in trial court:-

The petition was filed under Section 23 of the Protection of the Women from Domestic Violence Act, to pass the order of maintenance amount for the petitioner and her children and educational expenses of children.

3. The brief averments in the petition are as follows:-

The petitioner is the 1st petitioner in the main petition. The 1st petitioner and the respondent are husband and wife. The 2nd to 4th petitioners are the children of the 1st petitioner and the respondent. The 1st petitioner's father provided more than 50 sovereign jewels and other gold ornaments. The 1st petitioner has given a sum of Rs. 2,50,000/- to the respondent by selling her jewels to start the SMS Jergarthnda business, and the 1st petitioner is also working with him. When the time, the respondent appointed a lady, Bhuvaneshwari, and had an extramarital affair with her. Then, the respondent neglected the petitioners and did not take care of them. Then, the respondent has not come home. The 1st petitioner has met all expenses of the minors for the last year, a total sum of Rs. 1,83,000/-. The respondent continued



harassment the petitioners and did not pay any maintenance. Therefore, the petitioner has filed the petition.

4. The brief averments in the counter are as follows:-

The petition is not maintainable either in law or on the facts. The respondent denied the allegations contained in the affidavit except for the admitted facts. The documents are created by the petitioners and claimed the maintenance without any valid reasons. The petitioner has not provided an amount to start the businesses. He is working as an employee in a Janardhana shop. The educational receipts are not genuine. The respondent has not been earning as per the allegations of Rs. 2,50,000/- per month. The respondent is ready to maintain the petitioners with the earning of him. Hence, the petition may be dismissed with costs.

5. The trial court heard both sides and passed the order on 26.05.2025, and the respondent is directed to pay a sum of Rs. 1,83,000/- towards the educational expenses of 2 to 4 petitioners and maintenance amount of Rs. 4,000/- to the 1st petitioner and Rs. 2,500/- each to her three children on or before the 5th day of every month. The respondent is aggrieved by the order and filed the appeal.

6. Grounds of the Appeal:-



(i) The trial court order in CrI.M.P. No. 10152/2024 in DVC. No. 9/2024, dated 26.05.2025, is against the law;

(ii) The trial court failed to consider the jewels provided to the 1st respondent at the time of marriage without any documents by substantiating.

(iii) The trial court has failed to appreciate the residing in a joint family and separate residence appropriately.

(iv) The trial court has failed to note that the petitioner has resigned his driver job and joined employment in S.M.S. Jigardanta shop.

(v) The trial court has not considered the appellant's documents that he is working as a Manager in the S.M.S. Jigardanta shop and decided the maintenance.

(vi) The trial court has appreciated the plea without any document that the respondent was providing the amount to start the S.M.S. Jigardanta business and working along with the appellant.

(vii) The trial court passed the order of maintenance without any documents beyond the earnings of the appellant.

(viii) The trial court has not found out the genuineness of school receipts submitted by the respondent.



(ix) Hence, the appellate court has to set aside the order passed in Crl.M.P. No. 10152/2024 in DVC. No. 9/2024, dated 26.05.2025, on the file of the Judicial Magistrate Court No. V, Tirunelveli.

7. The Point for determination in the petition is:-

1. Whether the order passed by the learned Judicial Magistrate Court, No. V, Tirunelveli, in Crl.M.P. No. 10152/2024 in DVC. No. 9/2024, dated 26.05.2025, is perverse, warranting interference by this court as an appellate court?

8. For the sake and convenience of the appeal, the rank of the parties is taken from the trial court.

9. Answer to the Point: -

9.1. Heard both sides. This court carefully perused the memorandum of appeal, the trial court order, and the connected records.

9.2. As per the admitted facts, the respondent is the husband and the 1st petitioner is the wife and 2 to 4 respondents are the children of the 1st petitioner and the respondent. Due to the misunderstanding, both have lived separately.

9.3. Further, the 1st petitioner has filed the DVC case for several reliefs. The DVC has not been disposed of by the trial court. So, this court would not like to go into the matter of the DVC case.



9.4. During the pendency of the DVC case, the 1st petitioner has filed the petition for interim maintenance in Cr. M.P. No. 10152/2024. The trial court allowed the application and ordered to pay a sum of Rs. 1,83,000/- towards educational expenses of 2 to 4 petitioners and Rs. 4,000/- towards the interim maintenance for the 1st petitioner and Rs. 2,500/- each towards the maintenance of three minor children.

9.5. The respondent has filed this appeal against the order of the interim maintenance order. In respect of the maintenance or interim maintenance, the courts should consider the case of interim maintenance as per the settled law in “**Rajnesh (Vs.) Neha, (2020) 3 SCC 794**”; In the above case, the Hon’ble Supreme Court held that the husband should be paid the necessary maintenance to his wife and children as per his living status when they live with him. Further, the Hon’ble Supreme Court clearly held that the parties shall file the affidavit of assets and liabilities statement. But both parties have not filed the affidavit of assets and liabilities statement before the trial court. But the trial court has passed the order with the available documents.

9.6. In this case, the petitioners and the respondent are residing separately after their matrimonial dispute. The respondent has not provided any maintenance to the petitioners and the children's educational expenses. So, the petitioners filed the petition in Cr.M.P.No.10152/2024 for maintenance.



9.7. The trial court passed the order that the respondent is liable to pay a sum of Rs. 1,83,000/- towards educational expenses of 2 to 4 petitioners and Rs. 4,000/- towards the interim maintenance for the 1st petitioner and Rs. 2,500/- each towards the maintenance of three minor children. The respondent has stated that he has been working as the manager of SMS Jegarthanda Shop. The 1st petitioner has not provided any jewels for starting the business. But this court held that the respondent had the responsibility and maintained his wife and children as per his status.

9.8. This court has considered the order of the trial court, and the order of maintenance is very meagre. The income particulars of the respondent cannot be considered for the order of maintenance. Because the respondent had the responsibility to maintain his wife/1st petitioner and his children. So, the objection of the respondent cannot be considered in the appeal.

9.9. As discussed above, this appellate court could not find any merit in this appeal in respect of the payment of the interim maintenance. Further, this Court would not like to interfere with the order of the Trial Court; the order of the Trial Court is hereby confirmed, and the appeal is liable to be dismissed. Accordingly, the point is decided.



10. In the result, the criminal appeal is dismissed and the order dated 26.05.2025 passed by the learned Judicial Magistrate Court No. V, Tirunelveli in Cr.M.P. No. 10152/2024 in DVC No. 9/2024 is hereby confirmed.

This order is directly dictated to the Steno-typist Gr.I and typed by her in the computer, corrected, and pronounced by me in open court on this, the 5th day of June 2026.

1st Additional District & Sessions Judge,
Tirunelveli.

Copy to:

The Judicial Magistrate No. V,
Tirunelveli. (with L.C. records)

Through
The Chief Judicial Magistrate,
Tirunelveli.

TNTL010056342025



CRLA. No. 81/2025

I Additional District & Sessions Court,

Tirunelveli

Crl.Appeal No. 81/2025

Draft/Fair Judgment

Dated: 05.06.2026