

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE,
TIRUVANNAMALAI.

PRESENT: Thiru.***P. Mathusuthanan, B.A.,B.L.,***
Principal Sessions Judge,
Tiruvannamalai.

Monday, the 10th day of February, 2025

M.P.No.1/2024 in Unfiled C.A

(CNR.No.TNTM01-003651-2024)

K.S.Subha ... Petitioner /Appellant

Versus

Madhankumar ... Respondent/Respondent

This Criminal Miscellaneous Petition has come up before me for final hearing today (10.02.2025) and upon hearing the arguments of Mr.S.Abiraman, Learned Advocate appearing for the Petitioner/Appellant and the respondent remained exparte and upon perusing the available records and having stood over for consideration till this day, this court passed the following...

ORDER

The petitioner filed this petition under section 5 of Limitation Act to condone the delay of 18 days in preferring the Criminal Appeal against the Judgment of the Learned Judicial Magistrate No.I, Tiruvannamalai (Full Additional charge of Mahila Court, Tiruvannamalai) passed in DVC.No.17/2023 dated 03.07.2024.

2) **Brief averments of the petition are as follows:**

The petitioner is the appellant in the above main Criminal appeal. The petitioner filed a petition against the respondent under prevention of women from Domestic Violence Act before the learned Judicial Magistrate No.1, Tiruvannamalai (Full Additional charge of Mahila Court, Tiruvannamalai) by the Act.

The said application filed by herself was taken on file by the learned Judicial Magistrate No.1, Tiruvannamalai (Full Additional charge of Mahila Court, Tiruvannamalai) pronounced the Judgment on 03.07.2024.

The trial court has not applied its Judicial mind while passing the Judgment and misconceived her case and erringly concluded and calculated the maintenance amount as Rs.25,000/- per month.

The order passed against the respondent has to be graciously be consider the maintenance amount and also the trial court miserably failed to conceive with such a meager amount at this juncture to meet out her food, shelter, clothing's and studies and the medical treatment is highly impossible and miserable and have herself is constrained to file an Appeal petitioner.

She was suffered from severe Jaundice and to get proper medication she had been to Walajah, Palamaneri (Andra Pradesh), Coimbatore and Palakad for siddha Ayurvedhic and Neteropathy treatment.

When she enquired about her case at her counsel he has informed the petitioner about the delay caused in filing appeal. She ought to have file her appeal within 30 days due to the circumstances prevented then the delay of 18 days has been caused. The delay of 18 days caused was neither willful nor wanton. Hence this petition.

3) The Respondent remained exparte.

4) **Point for consideration in this petition is that**

Whether the petition is to be allowed as prayed for?

5) **Point: Heard and perused the records.**

6) Admittedly, there was a delay of 18 days in preferring the criminal appeal as against the Judgment passed by the Judicial Magistrate No.I, Tiruvannamalai (Full Additional Charge of Mahila Court, Tiruvannamalai) in DVC.No.17/2023 dated 03.07.2024 as against the petitioner. It is well settled Law that the petitioner shall be given a fair opportunity to contest her case on merits and the right of the petitioner to prefer an appeal shall not be rejected at threshold on the ground of mere delay only.

7) Having considered the reasons mentioned in the petition and in the absence of rebuttal contention on the side of the respondent who remained exparte and the facts and circumstances of the case and in the interest of

justice, this court is inclined to allow this petition. Thus, the point is answered accordingly.

In fine, this petition is allowed. No costs.

This Order is dictated by me to the Steno-Typist Grade-III of this Court, typed by him directly in Computer, corrected and pronounced by me in open court, this the 10th day of February, 2025.

**Principal Sessions Judge,
Tiruvannamalai.**