

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, TIRUVALLUR
PRESENT: Dr. J. JULIET PUSHPA, Ph.D. (Law)
Principal District Judge, Tiruvallur

Monday, the 6th day of April, 2026

I.A.1/2025 IN IDOP.250/2024
(CNR No. TNTR010067512024)

M. Nirmala

....Petitioner

Versus

R. Mageshwaran

.....Respondent

This Petition coming on for final hearing on 18.03.2026 in the presence of M/s R. Rajkumar, R.Vetrivel, P. Dhatchayani, R. Jagatheesan, learned counsel for the Petitioner and M/s D. Lemuvel, C. Murugan, R. Hariharan, learned counsel for the respondent, and upon hearing the arguments of both side and upon perusing the material case records and having stood over for consideration till this date, this Court delivered the following:-

ORDER

This Petition filed by the petitioner under Section 41 of Indian Divorce Act to order for interim custody of minor children (1) Magizhimathi and (2) Arathana and direct the respondent to hand over the custody of the minor wards to the petitioners on any two Sundays of every month at 10.00 AM to 5.00 PM

2. **The averments in the Petition filed by the Petitioner are as follows:-**

The petitioner is the petitioner in the main Original Petition praying to dissolve the marriage solemnized between the petitioner and respondent on 29.05.2015 at இயேசு உனக்காக ஜெபவீடு at Kannigaiper Village, Tiruvallur

District as per Christian rites and customs. Out of the wedlock, the petitioner had given birth to two female children namely Magizhmathi, now aged 9 years and Aaradhana , 6 years and now they are under the custody of the respondent from the time of their separation from 20.04.2024 till date. The moral, ethical welfare and healthy upbringing of the children is very important at their tender age. The marital discord between the petitioner and the respondent has made the children go through physical and mental stress. The companionship of the mother is a very valuable thing for the healthy growth, development and personality of the children. Welfare of the children is the paramount consideration. The respondent cannot bring up the children in a healthy atmosphere. The petitioner, being the natural guardian of the minor children is entitled to custody and also visitation rights to her children. But, the respondent and his family members did not allow the petitioner to join her children for the reasons best known to him. The petitioner's parents also crave to see their grandchildren. Hence, prayed to grant custody of the children for two Sundays in a month from 10.00 AM to 5.00 Pm.

3. **The averments in the Counter filed by the respondent in brief is as follows:-**

The respondent resisted the petitioner contending that the respondent was having illegal intimacy with one Vinoth , who is the husband of respondent's sister with whom the petitioner was roaming around which came to the knowledge of the petitioner and this was also known to the sister and mother of the petitioner and they warned her to discard such illegal conduct of the

petitioner. However, they continued their illegal intimacy even with the knowledge of the respondent. Thereafter, the respondent started to beat the children also and also told the children that only the Vinoth is their father. On 19.04.2024, the petitioner removed her *thali* and put the same on the bed and left the matrimonial house without the knowledge of the respondent, for which the respondent lodged complaint in FIR No.165/2024 and during the compromise, the petitioner had written the consent that she is living with the said Vinoth and she will not claim any right over the respondent and the children. Since then, the petitioner is taking care of the custody of the children till date. Hence, the petitioner who is leading a wayward life has no locus standi to file this petition. Since the children are studying in school, producing the children in the Court will cause mental agony to the children. Hence, prayed to dismiss the petition.

4. No oral and documentary evidence on both sides.

5. **Now the point for consideration in this petition is**

(i) **Whether this petition to grant interim custody of the minor children , Magizhimathi and Arathana to the petitioner and visitation rights as prayed for ?**

(ii) **Whether this petition is to be allowed ?**

6. **POINT:**

Heard both side.

This petition is filed by the petitioner/mother seeking interim custody of his minor children, Magizhimathi and Arathana from 10.00 AM till 5.00 PM on two Sundays in a month.

7. On perusal of records and points put forth by both counsel, it is seen that main original petition was filed by the petitioner against the respondent seeking dissolution of marriage on the grounds of cruelty. The petitioner is none other than mother of the above children and the respondent is the father.

8. The case of the petitioner is that the marriage between petitioner and respondent was performed on 29.05.2015 and they begotten the above two female children Magizhimathi and Arathana. After the birth of the children, since the respondent treated the petitioner with cruelty, she has filed the main original petition seeking divorce. While the original petition is pending, he has filed this petition seeking interim custody on two Sundays in a month to spend time with the children between 10 AM to 5.00 PM on those days.

9. Per contra, this petition is opposed by respondent contending that the petitioner was leading wayward life having illegal intimacy and also deserted the children without care and also she has already forfeited her rights of visitation during the police enquiry in respect of the complaint lodged by the respondent.

10. Admittedly, the minor children Magizhimathi and Arathana are now in the custody of respondent/father. The petitioner is none other than the

mother of the minor children. While the petitioner alleges that the respondent has denied the petitioner to visit the children, the respondent accuses her that she is having immoral behaviour and abusive nature towards the children.

11. Admittedly, the respondent and the petitioner are now separately living from 19.04.2024. When the petitioner alleges that the respondent denied her visitation rights, he alleges that the petitioner having rude behaviour upon the children and deprived matrimonial life of the respondent by leading a wayward life. In view of the above said contentions of both parties and also since almost a year has already passed since they are separated, this Court wanted to have interaction with the children to ascertain their willingness for the plea of the petitioner to the interim custody of his minor children. Accordingly, this Court interacted with the minor children on 11.03.2026 in the chamber. Both the minor children have expressed during the interaction that they have acquaintance with the petitioner as mother , but refused to see her as the petitioner deserted them. However, it appears that the children are happy with the custody of respondent and not expressed any willingness to accompany with the petitioner/mother even for single day, but agreed to see the mother during visiting hours, that too in the presence of the respondent/father.

12. The minor children are now aged 10 and 6 years old. The respondent does not dispute the visitation rights of the petitioner herein as mother of the children and stated that she had rude behavior towards the children, and the minor ward apprehend to see the petitioner. This Court has ascertained the fact during the interaction with the minor wards that the minor

children have expressed in words that they are comfortable with their father, the respondent. However, they have also agreed to see their mother, but accompanying with the respondent. Though the petitioner is the mother of the minor children, considering the interaction this Court had with the children, if the plea of the petitioner to have the interim custody of the children for a single day is allowed, the minor children would be put to hardships as they cannot accompany with the mother even for whole day, which would also detrimental to their studies. Therefore, the plea of the petitioner with regard to interim custody on two Sundays in a month cannot be granted.

13. At the same time, the petitioner is none other than the mother of the minor children. Therefore, this Court has to realize and respect the relationship and the concern of the petitioner towards her own minor daughters, who have agreed to see their mother along with father. Therefore, at this stage, the petitioner has every right to visit her children, which the respondent has to accept.

14. In view of the discussions supra, this court is inclined to grant only the visitation rights to the petitioner on the first Saturday of every month with conditions. These points are answered accordingly.

In the result, this petition is partly allowed without costs as follows:

- 1. The respondent is directed to produce minors (1) Magizhimathi and Arathana to the petitioner at the Office of the District Legal Services Authority, Tiruvallur on the first Saturday of every**

month between 2.30 PM to 5.00 PM in the presence of Secretary, District Legal Services Authority, Tiruvallur.

2. The petitioner is given liberty to interact with minor children at the above place and time.
- 3 The respondent, at the time of the interaction of petitioner with his minor children shall accompany the children, but should not give trouble to the petitioner and the minor wards.
- 4 Both the petitioner and respondent shall act with best interest of the minor wards.
5. The petitioner and the respondent shall ensure that during the visiting hours, the minor wards should not be subjected to any mental agony.

Dictated to the Steno-Typist, transcribed by him, corrected and pronounced by me in the Open Court, on this the 6th day of April , 2026

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Petitioner and respondent side witnesses
& Exhibits : NIL

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**