

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, TIRUVALLUR
PRESENT: Tmt.J. JULIET PUSHPA, B.Sc., M.L.,
Principal District Judge, Tiruvallur

Monday, the 10th day of November , 2025

I.A.2/2025 in IDOP.391/2022
(CNR No. TNTR010071972022)

K. Harikaran

....Petitioner

Versus

C. Emelda

.....Respondent

This Petition coming on for final hearing on 01.11.2025 in the presence of M/s R. Gokulraj, learned counsel for the Petitioner and M/s S. Carolin Esabella, G. Dilipkumar, 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 43 of Indian Divorce Act to direct the respondent to permit the petitioner to visit the child Chezhiyan once in a month.

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 between the petitioner and the respondent due to the cruelty committed by the respondent as against the petitioner. The respondent

filed original petition in SMOP 375/2013 seeking restitution of conjugal rights. Out of the wedlock male child Chezhiyan was born on 24.07.2020 and he is under the care and custody of the respondent. They have been separated since January 2021 and after that the petitioner used to visit the child to see his son Chezhiyan from his native place Dharapuram. But, during his visit the respondent, her parents and brother created issues not permitting the petitioner to see the child and then they completely denied the petitioner to visit the child from January 2024. Since then, he has not seen his child. The respondent is denying to visit the child without any valid reasons. The petitioner has been affected psychologically for not being able to see his child for years together. The respondent is willfully refusing the visitation for the reasons best known to her. No prejudice would be caused to the respondent by visiting the child once in a month. Hence, this petition.

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

The respondent admits the marriage and birth of the minor ward. The respondent resisted the petition stating that the petitioner is a Hindu and the respondent is a Christian which is a love cum arrange marriage solemnized on 30.10.2019 at Sacred Heart Church, Avadi. Out of the wedlock, male child Nivin Chezhiyan was born on 24.07.2020. They lived together till the month of July 2020 . The petitioner and his father criticized the respondent due to her

caste and religion and illtreated her. Thereafter, the petitioner abandoned the respondent and the child. The respondent failed to provide financial support to the respondent as well as to the child despite he is earning Rs.2,00,000/- per month owning a structural consultancy business and other immovable properties. They were separated since January 2021. The respondent never obstructed the petitioner to visit the child and it was the choice of the petitioner to abandon the respondent and the infant and evaded from his responsibilities over both of them. The petitioner occasionally visited the child and took the child to unknown destination with his mobile switch off in order to put the respondent into mental agony and used to bring back the child only at 9.00 PM without informing to the respondent or his parents. Even the petitioner clearly declared he doesn't want to live either with the respondent or with the child. He never bothered about the child for the past 5 years. If the petitioner's parents or family harass or ill-treats or threatened the child, the child does not have the ability to convey the things in a right manner which may cause mental agony to the child. Granting unsupervised visits would expose the minor child to an atmosphere of coercion as the petitioner and his family previously attempted to influence the respondent to change the religion. The Hon'ble High Court, Madras given specific direction to dispose the original petition at the earliest. The intention of the petitioner is only to prolong the proceedings. If really the petitioner intended to visit the child, he would have filed the petition even in the

year 2022 itself. Therefore, there are no merits, 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 visitation rights to the minor child Nivin Chezhiyan, to the petitioner till the disposal of original petition is ordered to be allowed or not ?**
 - (ii) **Whether this petition is to be allowed ?**

6. **POINT:**

Heard both side.

This petition is filed by the petitioner/father seeking visitation rights to his minor son, Nivin Chezhiyan till the disposal of the original petition.

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 their marriage solemnized on 30.10.2019 on the grounds of cruelty. In the original petition, the respondent herein filed counter and the case is posted for enquiry.

8. The case of the petitioner is that the marriage between petitioner and respondent was performed on 30.10.2019 and thereafter due to cruelty

meted out by the respondent towards the petitioner, they were separated since January 2021. Even though initially the petitioner used to visit his child Nivin Chezhiyan , thereafter the respondent and her family members resisted the petitioner visiting the child since January 2024. While the original petition is pending, he has come forward with this petition seeking visitation rights till the disposal of original petition.

9. Per contra, this petition is opposed by respondent contending that it was only the petitioner who separated himself from the respondent and he never cared about the child from the date of birth of the child, that is why she has filed original petition NO.375/2023 seeking restitution of conjugal rights and she has no objection for the petitioner to visit the child once in a month.

10. Admittedly, the minor child Nivin Chezhiyan is now in the custody of respondent/mother. The petitioner is none other than the father of the minor child . While the petitioner alleges that the respondent has denied the petitioner to visit the child, the respondent accuses her about her careless attitude towards the child, however, she has no objection for granting visitation rights , but apprehends without any supervision , if visitation is granted the petitioner may influence the child.

11. Admittedly, the relationship between respondent and the petitioner is strained and the petitioner herein filed IDOP.391/2022 seeking dissolution,

whereas the respondent filed SMOP.375/2013 seeking restitution of conjugal rights. The petitioner alleges that the respondent denied his visitation rights upon the child and he has not seen the child from January, 2024 and also accused of her and her family denying the petitioner to visit the child.

12. In view of the above said contentions of both parties and also since almost one year has already passed since the petitioner met the child, this Court wanted to have interaction with the child to ascertain his willingness for the plea of the petitioner to the interim custody of her minor child. Accordingly, this Court interacted with the minor child on 01.11.2025. The minor child Nivin Chezhiyan, expressed during the interaction that he has acquaintance with the petitioner as father and he was already visited by him and he is willing to meet his father. It appears that the minor ward is happy with the custody of respondent and also expressed his willingness for visitation of the petitioner/father.

13. The minor child is now 5 years. Though the respondent disputes the conduct of the petitioner towards the child and also about their matrimonial relationship, the respondent does not deny the visitation rights of the petitioner, which he has expressed in his counter, but apprehends that the unsupervisory visitation rights to petitioner would cause influence to the child. As stated above, this Court has ascertained the fact during the interaction with the minor

ward , who now aged 5 years, he has expressed in his own words that he is willing to meet his father/petitioner.

14. In respect of the issues involving custody of minor wards, the paramount consideration is only in the interest and welfare of the minor ward. In view of the discussions supra, this Court has to realize and respect the relationship and the concern of the petitioner towards her own minor son, who has expressed their willingness to see his father. Therefore, at this stage, the petitioner has every right to visit his minor son, Nivin Chezhiyan. Moreover, the respondent has no serious objection to the visitation of the petitioner to his minor child.

15. In view of the discussions supra, this court is inclined to grant visitation rights to the petitioner once in a month with conditions. These points are answered accordingly.

In the result, this petition is allowed and the petitioner is granted with visitation rights on conditions as follows:

- 1. The respondent is directed to produce minor Nivin Chezhiyan (born on 24.07.2020), 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 his minor son at the above place and time.**

- 3 **The respondent, at the time of the interaction of petitioner with his minor child shall not give trouble to the petitioner and the minor ward.**
- 4 **Both the petitioner and respondent shall act with best interest of the minor ward.**
5. **The petitioner and the respondent shall ensure that during the visiting hours, the minor ward 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 10th day of November, 2025 .

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**

Petitioner and respondent side witnesses
& Exhibits : NIL

**PRINCIPAL DISTRICT JUDGE
TIRUVALLUR**