

In the Court of Sessions, Tenkasi Division
Before the Principal Sessions Judge, Tenkasi.
PRESENT: THIRU. B. RAJAVEL, B.SC., B.L.,
Principal Sessions Judge,
Wednesday the 10th day of June 2026
Criminal Revision Case Number 42/2024
(CNR No. TENTS01-004479-2024)

Muthaiah, S/o. Subbaiah.

.....Revision Petitioner/Respondent

/Vs/

Mariammal, D/o. Mookaiah.

... Revision Respondent/Petitioner

This Criminal Revision Case has finally come before this Court on 04.06.2026 in the presence of Thiru.R.Samy, Advocate for the Revision Petitioner and Thiru.A.Jamaludeen for the Respondent and on hearing the arguments of both sides and upon perusing the records, and having stood over till this day for consideration, this court passed the following...

ORDER

This Criminal Revision Case has been filed by the Revision Petitioner u/s 438 & 440 BNSS to set aside the order passed by the learned Judicial Magistrate, Shencottah in M.C.No.5/2021 dated 05/07/2024.

2. The averments contained in the petition filed by the Revision Respondent before the trial court are briefly as follows:

The petitioner and the respondent were married on 22.07.1996 at Anna Nagar, in accordance with the customs and rites applicable to their community. At the time of marriage, it is the case of the petitioner that her parents provided her with 15 sovereigns of gold jewellery, cash amounts of Rs.25,000/- and Rs.50,000/-, besides various household articles and other customary gifts. Out of the said wedlock, two children, namely a son and a daughter, Subhasree, were born. Both children have since attained the age of majority. According to the petitioner, in the year 1999, the

respondent secured employment as a teacher at Tindivanam and consequently shifted the petitioner and the children to reside with him there. It is alleged that, after such relocation, the respondent's attitude and conduct towards the petitioner underwent a drastic change. The petitioner contends that she was subjected to continuous acts of physical and mental cruelty, deprived of proper food, clothing and medical care, and that the respondent neglected and failed to maintain the family. It is further alleged that the respondent frequently humiliated the petitioner by making disparaging remarks regarding her complexion, threatened to contract a second marriage, and repeatedly assaulted and harassed her, thereby causing severe mental agony and distress. The petitioner further states that, in the year 2011, the respondent demanded an additional dowry of Rs.1,00,000/- from her parental family. Upon her inability to comply with the said demand, the respondent allegedly assaulted her, caught hold of her neck, and forcibly drove her out of the matrimonial home. Thereafter, the petitioner returned to her parental home at Vadakarai along with the children. Though the respondent initially assured that he would provide for the maintenance and welfare of the petitioner and the children, he allegedly failed to honour the said assurance. It is the further case of the petitioner that the respondent caused a legal notice dated 15.10.2012 to be issued seeking dissolution of the marriage by way of divorce. In response thereto, the petitioner approached the All Women Police Station, Tenkasi, on 05.05.2013 seeking reunion with the respondent and also instituted proceedings in H.M.O.P. No.95 of 2013 before the competent Court. The petitioner asserts that, during the pendency of the said proceedings, the respondent represented before the petitioner and the village elders that he was willing to amicably resolve the matrimonial dispute and assured that he would pay a sum of Rs.30,000/- per month towards the maintenance of the petitioner and the children. Believing the said representation and acting upon such assurance, the petitioner refrained from effectively contesting the divorce proceedings. Consequently, an ex parte decree of divorce came to be passed on 12.12.2013, thereby dissolving the marriage between the parties. The petitioner further alleges that, subsequent to the decree of divorce, the

respondent contracted a second marriage with one Kanmani, a resident of Melakaram, and has since been residing with her as husband and wife. According to the petitioner, she is presently living under severe financial constraints and has no independent source of income for her sustenance. She further states that her daughter was pursuing higher education, thereby imposing additional financial burdens upon her. The petitioner contends that the respondent is presently employed as a teacher in a school at Viralimalai and is earning a monthly salary of approximately Rs.1,00,000/-. It is further alleged that the respondent owns agricultural grove properties valued at about Rs.20,00,000/- and a residential house worth approximately Rs.30,00,000/- situated in his native village. The petitioner also alleges that the respondent derives substantial additional income through money-lending activities and other sources. In the above circumstances, asserting that she is unable to maintain herself and that the respondent possesses sufficient means to provide maintenance, the petitioner has instituted the present proceedings seeking a sum of Rs.7,000/- per month towards house rent and a further sum of Rs.18,000/- per month towards food, clothing, medical expenses and other basic necessities, aggregating to a total maintenance of Rs.25,000/- per month.

3. The counter filed by the Revision petitioner/Respondent before the Trial court are briefly as follows:

The respondent respectfully denies each and every allegation, averment, and contention contained in the petition, save and except those that are specifically admitted herein. The petitioner is put to strict proof of all allegations made in the petition. It is admitted that the marriage between the petitioner and the respondent was solemnized on 22.07.1996 and that a son and a daughter were born out of the said wedlock. However, the respondent submits that the marriage was a love marriage solemnized at Krishnapuri and not an arranged marriage as portrayed by the petitioner. Consequently, the allegations that, at the time of marriage, the petitioner was provided with 15 sovereigns of gold jewellery, cash amounts of Rs.25,000/- and

Rs.50,000/-, and other valuable household articles are wholly false, baseless, and denied in toto. The respondent submits that no such dowry, cash, jewellery, or valuables were either demanded or received by him or his family members. The respondent further submits that, throughout the matrimonial relationship, it was the petitioner who exhibited a disrespectful and indifferent attitude towards the respondent and his parents and failed to discharge her matrimonial obligations in a responsible manner. According to the respondent, after the birth of the children, the petitioner's behaviour underwent a marked change and she frequently absented herself from the matrimonial home and returned at odd hours without offering any satisfactory explanation. The respondent states that, upon securing employment as a Teacher at Melmalayanur in the year 1999, he arranged suitable accommodation by taking a rented house at Sethupattu and shifted the petitioner and the children there for their convenience and welfare. During the subsistence of the marriage, the respondent incurred substantial expenditure, amounting to approximately Rs.5,00,000/-, towards the petitioner's educational advancement and career development. The respondent states that he supported and facilitated the petitioner in pursuing various courses, including a Diploma in Free Hand Outline and Model Drawing, Teacher Training Course (T.T.C.), and B.A. English Literature, with a view to improving her educational qualifications and employment prospects. The respondent further alleges that the petitioner developed an intimate and illicit relationship with one Karthik, son of Karunanidhi, who was residing in the neighbourhood. According to the respondent, the petitioner frequently left the children unattended at home and spent considerable time with the said individual. Whenever the respondent questioned her conduct, she allegedly subjected him to humiliation and disrespect and asserted that he had no authority to question her actions, despite being her husband. The respondent submits that, in or about the year 2011, the petitioner voluntarily deserted the matrimonial home along with the children and thereafter continued her association with the said Karthik. Subsequently, the petitioner is stated to have taken a separate residence at Vadakarai and

commenced living independently. The respondent further submits that it was the petitioner herself who initiated matrimonial proceedings seeking dissolution of marriage before the competent Court at Tenkasi and ultimately obtained a decree of divorce. Having voluntarily sought and secured dissolution of the marital relationship, the petitioner cannot now seek to portray herself as an aggrieved spouse abandoned by the respondent. The respondent states that his son, namely Pradeep, on account of his disapproval of the petitioner's conduct, chose to separate from her in the year 2014 and has thereafter been residing under the care and protection of the respondent. The respondent further submits that, although the petitioner was duly informed and invited to attend the marriage of Pradeep conducted in the year 2019, she failed to participate in the said family function. The respondent further states that he has continuously extended financial assistance towards the educational needs and welfare of his daughter, Subashree, through his son Pradeep and has never neglected his parental responsibilities. The respondent submits that his present income is substantially burdened by numerous financial commitments, including the maintenance and medical expenses of his aged parents, family obligations, repayment of debts, and expenditure incurred towards the establishment and operation of a badminton training centre. Consequently, his disposable income is considerably limited. The respondent further contends that the petitioner is neither unemployed nor financially dependent. On the contrary, she is gainfully employed as a Special Art Teacher in various educational institutions and is also conducting private coaching and evening classes. By virtue of such employment and other avocations, the petitioner is stated to be earning a monthly income exceeding Rs.50,000/-. The respondent therefore submits that the petitioner is fully capable of maintaining herself independently and is not a person without means. The respondent therefore submits that the petitioner voluntarily chose to live separately, initiated and obtained a decree of divorce on her own accord, and is presently residing independently. In such circumstances, the petitioner is not legally or equitably entitled to claim maintenance from the respondent. Hence, prays to dismiss the petition in its entirety with costs.

4. On behalf of the petitioner, P.W.1 and P.W.2 were examined and Exhibits P.1 to P.6 were marked. On the side of the respondent, R.W.1 to R.W.3 were examined and Exhibits R.1 to R.8 were marked. Upon a careful consideration of the oral and documentary evidence available on record, as well as the submissions advanced by the respective parties, the learned Trial Court allowed the petition and directed the respondent to pay a sum of Rs.6,000/- per month towards maintenance to the petitioner, together with the arrears accrued thereon. Challenging the legality and correctness of the said order, the respondent has preferred the present Criminal Revision Petition before this Court.

5. The averments contained in the Criminal Revision Petition are briefly as follows:

The respondent/wife admittedly left the matrimonial home in the year 2011 and instituted the present maintenance proceedings only in the year 2021, after an unexplained and inordinate delay of nearly ten years. The learned Trial Court failed to properly appreciate the legal effect of such prolonged delay and the circumstances indicating voluntary separation on the part of the respondent. The respondent had already obtained a decree of divorce in H.M.O.P. No.95 of 2013. However, at no point during the said matrimonial proceedings did she seek either maintenance pendente lite, permanent alimony, or any other monetary relief. The learned Trial Court failed to draw the necessary inference from the respondent's omission to claim maintenance at the earliest available opportunity and did not properly consider the impact of the subsequent maintenance claim preferred after several years. The documents marked as Ex.R1 and Ex.R2, which were executed in the presence of village elders and purportedly evidenced the respondent's intention to live separately and her acknowledgment of having received her belongings and articles, were not considered in their proper perspective. The learned Trial Court failed to assign adequate reasons for discarding the evidentiary value of the said documents. The specific defence raised by the revision petitioner regarding the respondent's alleged

association with one Karthik, which was sought to be substantiated through the testimony of RW2 and RW3 and other attendant circumstances, was rejected without a comprehensive evaluation of the oral and documentary evidence available on record. The learned Trial Court failed to undertake a proper appreciation of the surrounding circumstances relevant to the defence case. The learned Trial Court further failed to adequately consider the respondent's educational qualifications, earning capacity, employability, and the materials placed on record regarding her independent means of livelihood. The evidence adduced on behalf of the revision petitioner, including the testimonies of RW2 and RW3, as well as the inconsistencies and contradictions in the respondent's version, were not properly analyzed, resulting in findings that are contrary to the weight of evidence. The quantum of maintenance has been fixed without a proper assessment of the revision petitioner's actual income, financial obligations, liabilities, and other relevant attending circumstances governing the determination of maintenance. The learned Trial Court failed to undertake a balanced evaluation of the financial capacity of the parties before arriving at the amount awarded. Consequently, the impugned order is vitiated by non-consideration of material evidence, misappreciation of facts, and failure to apply the settled principles governing maintenance proceedings. The findings recorded by the learned Trial Court are therefore unsustainable in law and on facts, warranting interference by this Hon'ble Court in the exercise of its revisional jurisdiction.

6. The point for consideration in this Criminal Revision Petition is :

“Whether the order dated 05.07.2024 passed by the learned Judicial Magistrate, Sengottai, in M.C. No.05 of 2021 awarding maintenance of Rs.6,000/- per month to the respondent/wife suffers from any illegality, perversity, non-consideration of material evidence, or improper appreciation of facts warranting interference by this Court in exercise of its revisional jurisdiction?”

7. **POINT:** This Criminal Revision Case has been filed challenging the order dated 05.07.2024 passed in M.C. No.05 of 2021 by the learned Judicial Magistrate, Shencottah directing the revision petitioner/respondent to pay maintenance of Rs.6,000/- per month, along with arrears and costs. Heard both sides. Perused the materials available on record.

8. It is an admitted and undisputed fact that the marital relationship between the petitioner and the respondent was legally valid and that the children born out of the said wedlock are their legitimate offspring. The factum of marriage as well as the paternity of the children has never been disputed by either party at any stage of the proceedings. It is further not in controversy that, in the year 2011, the petitioner left the matrimonial home along with the children and thereafter commenced residing separately. The pleadings and oral evidence available on record disclose that the petitioner subsequently shifted to Vadakarai, where she admittedly occupied a rented premises and established an independent residence away from the respondent. The materials placed before the Court further reveal that the parties have been living separately continuously from the year 2011 onwards, without any resumption of normal matrimonial cohabitation. It is also an admitted position that the parties remained separated from the year 2011 and that an ex parte decree of divorce came to be passed in H.M.O.P. No.95 of 2013 on 12.12.2013. The principal defence put forth by the revision petitioner before the Trial Court was that the respondent/wife had voluntarily deserted the matrimonial home long prior to the institution of the maintenance proceedings and that she possessed sufficient independent means to maintain herself. Whether the Petitioner Has Established That She Is Unable to Maintain Herself

9. In order to succeed in a claim for maintenance under Section 125 of the Code of Criminal Procedure, the petitioner is required to establish that she is unable to maintain herself. The inability to maintain oneself is a foundational requirement for invoking the jurisdiction under the said provision.

10. In the present case, the evidence available on record raises substantial doubt regarding the petitioner's alleged inability to maintain herself. During her cross-examination, P.W.1 categorically admitted that from the year 2011 onwards she had been residing separately in a rented house at Vadakarai along with her children. Her evidence further discloses that she had independently managed her residence and day-to-day affairs for a considerable period of time without cohabitation with, or financial support from, the respondent. Such prolonged and uninterrupted independent residence assumes significance while adjudicating the issue of financial dependency and entitlement to maintenance.

11. The evidence further reveals that the petitioner has undergone teacher training and possesses qualifications as a drawing teacher. Consequently, she is equipped with the requisite educational qualifications and skill set to undertake suitable employment and earn a livelihood. Significantly, however, the petitioner has neither pleaded nor adduced any evidence to demonstrate that she made bona fide efforts to secure employment commensurate with her qualifications and experience. Equally, no material has been produced to establish that she suffers from any disability, incapacity, or other impediment preventing her from engaging in gainful employment.

12. It is well settled that maintenance under Section 125 Cr.P.C. is intended to provide relief to a person who is genuinely unable to maintain herself. While the mere possession of educational qualifications may not, by itself, disentitle a claimant from seeking maintenance, the claimant must nevertheless establish that, despite reasonable efforts, she is unable to sustain herself. In the case on hand, the petitioner has failed to place satisfactory evidence before the Court to establish such inability.

13. While considering the entitlement of a divorced wife to claim maintenance, this Court has also carefully examined Ex.R2, which was marked on the side of the respondent. A reading of the said document indicates that the petitioner had expressed her intention to separate from the respondent and to live independently.

The recitals contained therein prima facie suggest an intention on the part of the petitioner to withdraw permanently from the matrimonial relationship and to lead a separate life. The contents of Ex.R2, therefore, assume relevance while evaluating the circumstances under which the parties came to live apart and the nature of the petitioner's subsequent claim for maintenance. Ex.R2 contains, inter alia, the following recitals:

“தங்களிடமிருந்து நிரந்தரமாக பிரிந்து வாழ விரும்பும் நான்” and “இனிமேல் தங்களுடன் சேர்ந்து வாழ விருப்பமில்லாத காரணத்தால், நிரந்தரமாக பிரிந்து வாழ்வதை சுய நினைவுடனும் முழு சம்மதத்துடனும் இவ்விடுதலைப் பத்திரத்தின் மூலம் உறுதிப்படுத்துகிறேன்.”

The above recitals unmistakably reveal that the petitioner had voluntarily and unequivocally expressed her intention to permanently sever her marital ties with the respondent and not to resume cohabitation or continue the matrimonial relationship.

14. It is the specific case of the respondent that the petitioner left the matrimonial home on account of her alleged association with another person and has thereafter been residing with him. It is further alleged that, owing to such relationship, the petitioner's son distanced himself from her and commenced residing with the respondent. In support of the said contention, the respondent examined the son of the parties as R.W.2. The petitioner, in turn, examined her daughter as P.W.2 in rebuttal. Thus, while the respondent sought to substantiate his version through the testimony of the son, the petitioner relied upon the testimony of the daughter, both being close family members, in support of their respective stands concerning the alleged relationship.

15. It is trite that, following the dissolution of a marriage, there exists no legal impediment preventing a person from entering into another marital relationship or from residing with another individual. However, where a specific plea is raised by the respondent that the petitioner is living with another man and is being maintained

by him, the burden of establishing such allegation squarely rests upon the respondent. Such a serious allegation cannot be sustained on mere conjectures, suspicions, or unsubstantiated assertions; it must be proved by cogent, convincing, and legally admissible evidence.

16. In the present case, the respondent has primarily relied upon certain photographs. Mere production of photographs, without more, is wholly insufficient to conclusively establish that the petitioner is living in a relationship akin to marriage or in an illicit relationship with another person. If, as alleged, the said Karthik had in fact been residing with the petitioner at her residence, some independent documentary evidence reflecting his residence at the said address could reasonably have been expected to be forthcoming. Significantly, no such material has been placed before the Court. Equally, the respondent has not chosen to examine either the said Karthik or any member of his family to lend support to the allegation. It is also noteworthy that no accusation regarding such an alleged relationship appears to have been made in any earlier complaint, police proceeding, legal notice, or prior litigation between the parties.

17. In the absence of any independent corroborative evidence, this Court is unable to accept the respondent's allegation merely on the basis of suspicion. The surrounding circumstances indicate that the plea appears to have been raised primarily with a view to defeat the petitioner's claim for maintenance by suggesting that she is otherwise being maintained by the said person. Accordingly, this Court holds that the respondent has failed to discharge the burden of proving the said allegation through reliable, satisfactory, and legally acceptable evidence.

18. At the same time, during the course of cross-examination, certain photographs were confronted to P.W.1. Although she gave evasive responses regarding the identity of the male person appearing alongside herself and her daughter in several of those photographs, she did admit that the female persons depicted therein resembled herself and her daughter. While the allegation of an illicit

relationship, in the absence of strict proof, may not by itself be sufficient to disentitle a claimant from seeking maintenance, the conduct of the petitioner and the attendant circumstances nevertheless constitute relevant factors in assessing her overall credibility and the nature of her independent living arrangements. More importantly, Ex.R1 assumes considerable significance. In the said document, the petitioner herself has categorically and unequivocally stated as follows:—

“எனது வேலை வாய்ப்பு தேவையை கருத்தில் கொண்டு, தங்களிடம் இருந்த எனது கல்விச் சான்றிதழ்கள் மற்றும் பிற சான்றிதழ்கள், பதிவேடுகள் ஆகியவற்றை பெற்றோர் மற்றும் பெரியோர்கள் முன்னிலையில் பெற்றுக் கொண்டேன்.”

A careful reading of Ex.R1 unmistakably indicates that the petitioner intended to secure employment and, for that purpose, obtained her educational certificates and other records from the respondent in the presence of village elders. The said document lends considerable support to the defence projected by the respondent that the petitioner was adequately qualified, employable, and had intended to maintain herself independently after the parties commenced living separately.

19. It is well settled that a person seeking maintenance before a Court is under a legal obligation to make a full, true, and candid disclosure of all material particulars relating to his or her financial status, income, assets, and sources of sustenance. At the very least, such facts ought to have been truthfully disclosed either during oral evidence or in the Statement of Assets and Liabilities filed before the Court. In the present case, merely because no direct documentary evidence has been produced to establish the petitioner's alleged employment in a private school, this Court cannot automatically conclude that she had absolutely no source of income whatsoever. Had the petitioner produced her complete bank account statements and transaction details, the nature of her financial dealings, expenditure pattern, and corresponding sources of income could have been effectively scrutinized and assessed by the Court.

20. The respondent has specifically adduced evidence that the petitioner pursued higher studies and teacher training courses after marriage. Although the petitioner attempted to downplay her educational attainments during the course of evidence, the documentary materials produced on the side of the respondent indicate that she possesses sufficient educational qualifications capable of enabling her to obtain gainful employment. Consequently, the cumulative effect of the oral and documentary evidence on record creates a serious doubt regarding the correctness of the petitioner's assertion that she had absolutely no means whatsoever to maintain herself.

21. The Trial Court, while granting maintenance, failed to adequately consider the evidentiary significance of Ex.R1, the admitted fact that the petitioner has been residing separately since the year 2011, and the evidence relating to her educational qualifications, employability, and earning capacity.

22. A close examination of the recitals contained in Ex.R1 reveals specific references to the following documents belonging to the petitioner:

1. State Bank of India, Tindivanam – Passbook;
2. Union Bank of India, Tindivanam – Passbook;
3. Union Bank of India, Vadakarai – Passbook; and
4. Permanent Account Number (PAN) Card.

Significantly, none of the aforesaid documents or particulars have been disclosed in the Statement of Assets and Liabilities filed by the petitioner before the Court. Though the petitioner has stated therein that she has no income, she has disclosed only one bank account and has failed to furnish complete particulars or transaction details relating thereto. Further, despite admittedly possessing a PAN Card, she has not produced any document relating to her income-tax records or financial affairs.

23. Although the petitioner claims to be unemployed, the relevant bank account transaction details, which could have thrown considerable light on her

financial status, have been withheld from the Court. Moreover, a perusal of the affidavit filed by the petitioner reveals that the columns pertaining to her employment status and occupation have not been properly filled up. She has merely stated that she was unemployed and had no income during the relevant period. Likewise, she has asserted that she had no income-tax liability. Such disclosures, without supporting particulars, cannot be accepted at face value when material documents indicating otherwise have been brought on record by the respondent.

24. A careful perusal of the impugned order further reveals that the learned Magistrate, though referring to the rival pleadings, failed to properly consider the effect of the admitted long separation between the parties since the year 2011, the considerable delay in instituting the maintenance proceedings only in the year 2021, and the evidentiary value of Ex.R1 and Ex.R2 relied upon by the revision petitioner. The Trial Court has also not recorded any clear finding regarding the petitioner's independent earning capacity despite specific pleadings, oral testimony, and documentary evidence adduced on behalf of the revision petitioner.

25. The revision petitioner had also relied upon Ex.R1 and Ex.R2, which are settlement documents stated to have been executed between the parties in the presence of village elders. Furthermore, although the allegation regarding an adulterous relationship may not have been established to the degree of proof required for a definitive finding under law, the same could not have been brushed aside without a proper analysis of the testimonies of R.W.2 and R.W.3 and the surrounding circumstances relied upon by the revision petitioner. The appreciation of evidence by the Trial Court appears incomplete, selective, and lacking a comprehensive evaluation of the materials available on record.

26. This Court is also unable to discern any rational basis or objective assessment underlying the fixation of maintenance at Rs.6,000/- per month with retrospective effect from the date of the petition, particularly in the absence of

satisfactory proof regarding the actual income, financial capacity, and liabilities of the revision petitioner.

27. Though the revisional jurisdiction of this Court is ordinarily limited in scope, interference becomes imperative where the findings recorded by the Trial Court suffer from non-consideration of material evidence, misappreciation of facts, and omission to address relevant circumstances, thereby resulting in a manifest failure of justice. In the considered view of this Court, the impugned order suffers from such infirmities and cannot be sustained. Point is answered accordingly.

28. In the result, this Criminal Revision is allowed and the order passed by the Learned Judicial Magistrate, Shencottah in M.C.No.5/2021 dated 05.07.2024 is set aside and consequently the M.C.No.5/2021 is also hereby dismissed.

Dictated to the steno-typist directly and typed by him in his computer and corrected and pronounced by me in the open court this the 10th day of June 2026.

PRINCIPAL SESSIONS JUDGE,
TENKASI.

Copy to

The Judicial Magistrate, Shencottah.

(with Records)