

In the Court of the Judicial Magistrate I, Tirupathur

Present: Tr. K.S.Dinesh, B.A., B.L., (Hons.)

Judicial Magistrate I, Tirupattur

Tuesday the 7th day of April 2026

Crl.M.P. No. 1460/2025 in MC No. 44/2023

R.Ganesh

...Petitioner

//Versus//

J.Kavith

...Respondent

This petition is coming on for final hearing before me in the presence of Tr.T.K.Ampalatharasu, Advocate for the Petitioner and Tr.A.Duraipandiyan for the Advocate Respondent / Complainant and upon hearing the arguments of both sides, this court delivered the following:

ORDER

This petition is filed by the Petitioners U/s.146 of BNSS for cancellation of allowance Order.

1. The contents of the petition in brief is as follows:-

The Respondent/petitioner has filed a petition under section 125(1) Crpc against the petitioner/respondent and obtained an exparte order on 26.03.2024 from the Hon'ble Court which ordered the petitioner/Respondent to pay a monthly alowane of Rs.7,000/- to the respondent/petitioner from the date of filing of the said maintenance petition vide M.C.No.44/2023. In the said M.C.No.44/2023, the petitioner/respondent did not receive notice and hence has no knowledge about it and hence did not appear. The respondent/petitioner filed a petition for collection of

arrears of maintenance of 14 months for a total of Rs.98,000/- vide CrI.M.P.No.10474/2024 in which the petitioner/respondent received the court notice and appeared before this court on 29.01.2025. Marriage between the petitioner/respondent and the respondent/petitioner was solemnized on 14.11.2022 at Sree Selva Vinayagar Koil Mandapam, Tiruchengode, Namakkal district. After the said marriage only, the petitioner/respondent came to know that he was cheated by the respondent/petitioner by suppressing the material fact that she is suffering from a kind of mental disorder known as “Schizophrenia” since the year 2018. So the petitioner/respondent filed petition u/s.12(1)(c) of the Hindu Marriage Act before the Hon’ble Subordinate Court, Tiruchengode in HMOP No.112/2024 which was allowed vide order dated 18.02.2025 and the marriage dated 14.11.2022 was annulled. Since the marriage is annulled by the competent court, the respondent/petitioner is not a wife of the petitioner/respondent and hence the respondent/petitioner is not entitled to get any maintenance from the petitioner/respondent and hence the exparte order of maintenance passed against the respondent/petitioner is necessarily to be cancelled due to change in circumstances. Hence the petitioner has filed the present petition under section 127(2) of Cr.P.C. seeking to cancel the order dated 26.03.2024 passed in M.C.No.44/2023.

2. The contents of the counter statement filed by the Respondent/petitioner in brief is as follows:-

The allegations in the petition are denied except those that are specifically admitted herein. The allegation that the respondent/petitioner has filed a petition seeking maintenance of Rs.75,000/- is denied. The allegations in paragraph 4 of the petition that the petitioner did not receive notice from court and only later he learnt that maintenance was ordered exparte and that he received notice on 29.01.2025 in an application filed seeking recovery of maintenance order are denied. Further allegation that the respondent/petitioner has suppressed material facts and that the respondent is suffering from “Schizophrenia” since the year 2018 and hence the petitioner filed a

petition before the Hon'ble Court in Tiruchengode and obtained a decree of divorce on 18.02.2025 are all denied. The further allegation that there is delay of 322 days in filing the petition and the said delay is neither wanton nor wilful. The petitioner/respondent has filed a petition before the Hon'ble Subordinate Court, Tiruchengode stating false allegations and has obtained divorce order. The respondent/petitioner has made many attempts to amicably settle and to live with the petitioner. However instead of coming forward to live together, the petitioner/respondent has obtained divorce based on false allegations. Hence the respondent/petitioner was subjected to mental agony and since her future was at stake, the respondent/petitioner had filed an application seeking for maintenance before this court and the same was ordered exparte. The petitioner/respondent was duly issued notice regarding the filing of the present maintenance application and in order to evade payment of the maintenance, the petitioner/respondent wantonly did not appear before this court and has filed the present application belatedly after an exparte order has been passed against him. The petitioner/respondent with a malafide intention to delay the proceedings has filed the present application after 1 year since the passing of the exparte order and hence the present application seeking for cancellation of the maintenance order is not maintainable. The petitioner/respondent is working as an Assistant Professor at Mall Reddy College of Engineering, Secundrabad and is earning Rs.1,50,000/-. Furthermore the petitioner/respondent is earning Rs.1,00,000/- through Ghee factory at Tiruchengode and earning Rs.5,00,000/- annually through rental income. Hence the petitioner/respondent has sufficient means to pay the maintenance amount. Hence only in order to delay the payment of the maintenance, the petitioner/respondent has filed the frivolous applications and hence the same is not maintainable. Hence the petition is liable to be dismissed with cost.

3. Discussions:-

Arguments of both sides heard. Records perused. It is the case of the petitioner/respondent that the respondent/petitioner had filed an application under section 125 of Cr.PC., seeking maintenance and he did not receive notice in the said application and hence the maintenance was ordered exparte vide order dated 26.03.2024 in M.C.No.44/2023. Thereafter the petitioner/respondent came to know about the said exparte order only when he received notice in CrI.M.P.No.10474/2024 seeking payment of arrears. The petitioner/respondent has filed an application under section 12(1)(c) of the Hindu Marriage Act in HMOP 112 of 2024 before the Hon'ble Subordinate Court, Tiruchengode and vide order dated 18.02.2025, the marriage that took place on 14.11.2022 between the petitioner and the respondent has been annulled and hence the petitioner has filed the present application seeking cancellation of the maintenance order dated 26.03.2024. Per contra, it is the case of the Respondent/Petitioner that the petitioner who has received the notice in MC.No.44 of 2023 has wantonly did not appear before this court and hence he was set exparte and an exparte order dated 26.03.2024 was passed wherein a maintenance of Rs.7,000/- was ordered and that the petitioner/respondent has not provided any valid reasons for the said delay in filing the present application and further admits that the petitioner/respondent has obtained a decree of divorce stating false allegations and that the petitioner/respondent has sufficient means to pay the arrears of maintenance and the petitioner/respondent has not shown sufficient cause to cancel the order passed by this court in MC.No.44/2023 order dated 26.03.2024.

4. The petitioner/respondent has stated that the marriage between the petitioner/respondent and the respondent/petitioner has been annulled vide order dated 18.02.2025 in HMOP 112/2024. The petitioner/respondent has produced the court copy of the order in order to prove the same. Upon perusal of the said order, the marriage dated 14.11.2022 between the petitioner/respondent and the respondent/petitioner has been annulled under section 12(1)(c) of the Hindu Marriage

Act. The said order of annulment of marriage has also been admitted by the Respondent/petitioner in their counter statement as well. Though it has been disputed by the respondent/petitioner that the said order was obtained by stating false allegations, the respondent/petitioner has not mentioned any details to show that an appeal has been preferred against the order dated 18.02.2025 in HMOP 112/2024. Hence it can be ascertained that the marriage dated 14.11.2022 has been annulled by the Hon'ble Subordinate Court vide order dated 18.02.2025 in HMOP No.112/2024.

5. The Hon'ble Andhra Pradesh High Court in PALLA SHANTHI KIRAN V. THE STATE OF A.P. REP. BY PUBLIC PROSECUTOR, HIGH COURT BUILDINGS, AMARAVATI & ANOTHER reported in 2020 ALT CRI 2 227 held as follows:-

“48. At the first blush on a superficial examination of the scope, extent and the field of operation of the said provisions it may appear that there is no distinction between these two provisions, but, in fact, on a deeper examination, it would be clear that there is a vast difference which can be clearly perceived from the law laid down by the Apex Court in the above Chand Dhawan's (supra)case. Therefore, when Section 125 Cr.P.C. and Section 25 of the Hindu Marriage Act are two independent provisions of law, with different scope and extent and when they operate in two different fields i.e. one operates when the wife enjoys the status as legally wedded wife and the other operates when the wife loses her status as legally wedded wife, it is legally impermissible to bring such category women whose marriages are annulled by decree of nullity under Section 12 of the Hindu Marriage Act within the sweep of inclusive definition of “wife” in clause (b) of explanation to Section 125(1) Cr.P.C.

49. Thus, after examining the matter from all possible angles, the only irresistible conclusion that can be arrived at in the facts and circumstances of the case is that a woman of annulled marriage cannot claim maintenance under Section 125 Cr.P.C.”

6. The above said Judgment will be squarely applicable to the present case in hand. The Hon'ble Suordinate Court, Tiruchengode vide order dated 18.02.2025 in HMOP No.112/2024 has effectively annuled the marriage dated 14.11.2022 u/s.12(1) (c) of the Hindu Marriage Act. Hence the respondent/petitioner ceases to be the lawfully wedded wife of the Petitioner/respondent as on 18.02.2025. It is pertinent to note that the maintenance under section 125 Crpc has to be granted only to a legally wedded wife and hence as per the discussions supra, it can be ascertained that there is change in circumstances and the respondent/petitioner is no longer the legally wedded wife of the petitioner/respondent, it is only appropriate that there is a necessity to interfere in the order dated 26.03.2024.

7. It is pertinent to note that the Respondent/Petitioner had sought for maintenance from the petitioner/respondent and a sum of ₹7,000/- payable monthly from 11.09.2023 hsa been ordered vide order dated 26.03.2024 in M.C.No.44/2023. Since the marriage between the Petitioner/Respondent and the Respondent/Petitioner has been proved to be annulled vide order dated 18.02.2025, the Respondent/Petitioner ceases to be the lawfully wedded wife of the petitioner/respondent as on 18.02.2025. Since the order dated 26.03.2024 in MC.No.44/2023 has not been reversed and still in subsistence, the petitioner/respondent is duty bound to pay the maintenance amount from 11.09.2023 till the date of order of annulment of marriage i.e., 18.02.2025.

8. Since there is change in circumstances as the marriage between the petitioner/respondent and the respondent/petitioner stood annuled, it is only trite that

the maintenance order is modified accordingly. In the result the petition is allowed and the order dated 26.03.2024 is modified to the effect that the respondent/petitioner is only entitled to receive maintenance from the petitioner/respondent from 11.09.2023 till 18.02.2025. The petitioner/respondent is directed to pay the arrears of the maintenance amount, if any, within a period of THREE MONTHS. The respondent/petitioner is not entitled for any maintenance under section 125 CRPC from the date of annulment of marriage i.e., 18.02.2025 and hence the previous order dated 26.03.2024 shall stand cancelled to that effect.

Typed by me in my computer, corrected and pronounced by me in open court on this the 7th day of April 2026.

SD/-K.S.Dinesh, B.A., B.L., (Hons.)
Judicial Magistrate No.I,
Tirupattur.

//True copy//