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Order QR

CRL RC No. 1116 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15-09-2026

PRONOUNCED ON : 21-09-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 1116 of 2026

CNR:{HCMA011151842026}

AND

CRL MP No. 8894 of 2026



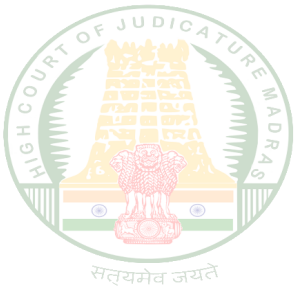
Case QR

..Petitioner(s)

Vs

..Respondent(s)

Criminal Revision Case filed under Section 438 r/w 442 of BNSS, to call for records and set aside the order dated 13.03.2026 passed by the learned VI Additional Principal Judge, Family Court, Chennai in M.C.No.415 of 2023.



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For Petitioner(s):

Mr.B.Kumar, Sr. Counsel
for Mr.T.Sudhan Raj

For Respondent(s):

Ms.B.Poongkhulali

Order

The Criminal Revision has been filed challenging the order of maintenance under Section 144 of BNSS awarded to the respondent.

2. The revision arises under the following circumstances:

(i) The 1st respondent filed MC.No.415 of 2020 stating *inter alia* that she got acquainted with the petitioner through a common friend in the year 2014; that she was working as a 'Model'; that the petitioner introduced himself as a Film Producer and later, informed that he is running an educational institution; that thereafter, they met often; that on 14.02.2016, the petitioner expressed his love for the 1st respondent; that the 1st respondent refused to accept the proposal since the petitioner was already married; that thereafter, in the month of August 2016, the petitioner once again approached her and convinced her to accept his proposal by stating that he had a miserable married life and he had already divorced his wife; that he had also showed a 'divorce copy'; that in November 2019, the petitioner convinced the mother of the 1st



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respondent to agree for their marriage; that on 20.01.2020, the marriage between the 1st respondent and the petitioner was solemnised at a temple at Uthiramerur; that thereafter, they lived at the residence of the 1st respondent; that out of the wedlock, a son by name ~~XXXXX~~ was born on 15.03.2021; that the family members of the petitioner used to visit the 1st respondent and the minor child (2nd respondent) and spend time with them and all of them celebrated festivals together; that from June 2022, for the reasons best known to the petitioner, he had not visited the 1st respondent or their minor son, though the petitioner's parents visited the 1st respondent and the minor son; that because a child was born, the 1st respondent could not pursue her avocation; that therefore, she was unable to maintain herself and the minor child with a meagre income; and that the petitioner was earning Rs.30 Lakhs per month and therefore, she was entitled to maintenance of Rs.6 Lakhs for herself and Rs.4 Lakhs per month for her son.

(ii) The petitioner filed a counter denying all the averments made in the petition, including the averments that he had stated to the 1st respondent that he did not have a happy married life; that he produced a



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copy of the divorce order; and that he convinced the mother of the 1st respondent to agree for the marriage. He also denied that a marriage with the 1st respondent took place and that he was living with the 1st respondent. He would further add in the counter that after the child was born on 15.03.2021, the 1st respondent started to blackmail him and started to demand money; that thereafter, he discontinued his relationship with her; that the 1st respondent was aware that he was already legally married and therefore, his relationship with the 1st respondent was not legal in the eye of law; that the 1st respondent took advantage of a weak moment of the petitioner and got conceived to make unlawful gain from the petitioner; that after he came to know of the character of the 1st respondent, he stopped interacting with the 1st respondent; that the 1st respondent was in the field of Modelling and acting and many persons were intimate to her; that since the marriage between the petitioner and the 1st respondent had not been established, she was not entitled to maintenance under Section 125 of the Cr.P.C.; that she had sufficient sources to maintain herself; that he was even willing to undergo paternity test for the child, but, considering the future of the child, he was willing to pay Rs.25,000/- as maintenance to the child; that that the claim of the



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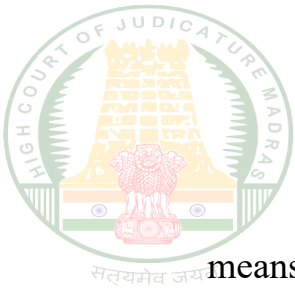
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petitioner was excessive and hence, the petition was liable to be dismissed.

(iii) Before the Family Court, the 1st respondent examined herself as PW1 and marked Ex.P1 to Ex.P6. The petitioner marked Ex.R1, the certified copy of the sale deed to evidence purchase of a property by the 1st respondent in the year 2020.

(iv) The Family Court found that since the petitioner had not examined himself as a witness and had not discredited the evidence of the 1st respondent in any manner, the fact that the petitioner misled the 1st respondent and made her believe that he was a divorcee had been established. The Family Court found that the 1st respondent had established that the petitioner and the 1st respondent had long cohabitation and that absence of proof of valid marriage cannot be a ground for denial of maintenance. The Court also observed that the petitioner had forced the 1st respondent into a relationship by suppressing the fact that there was a valid marriage and he cannot be allowed to take advantage of his own wrong. The learned Judge also found that the 1st respondent had no



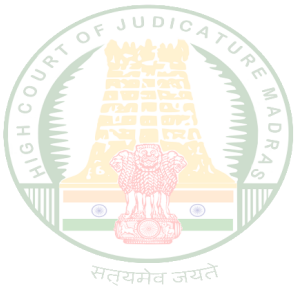
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means to maintain herself and the child and therefore, was entitled to maintenance. The learned Judge thereafter considering the status of the parties, had quantified the maintenance payable to the 1st respondent as Rs.1,00,000/- and to the 2nd respondent (minor child) as Rs.1,50,000/-.

3.(i) Mr.B.Kumar, learned senior counsel for the petitioner, would submit that the 1st respondent knew that the petitioner was already married; that she as a second wife would not be entitled to maintenance under Section 125 of the Cr.P.C., even assuming that she had established the marriage between her and the petitioner; that the 1st respondent failed to establish a valid marriage with the petitioner; that no temple certificate, no independent witnesses and no photographs were produced to prove the marriage; that there was no tying of 'thaali'; that the 1st respondent purchased a property in the year 2020 for a sale consideration of Rs.1,70,00,000/-, which was established by the petitioner by marking Ex.R1; that therefore, the 1st respondent cannot be said to be a destitute, to claim maintenance from the petitioner; and that she also has two luxury cars and therefore, she had not satisfied the conditions required to invoke Section 125 of the Cr.P.C.



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(ii) The learned senior counsel relied upon the judgment of the Hon'ble Supreme Court in *Vimala v. K. Veerasamy*¹ and *Rajkumari v. Krishna*², in support of the submission that unless a valid marriage is established, the lady is not entitled to maintenance. He relied upon the judgment in *Savitaben Somabhai Bhatiya v. State of Gujarat*³ in support of the submission that there cannot be estoppel against statute and the plea that the appellant was not informed about the respondent's earlier marriage cannot be a ground to award maintenance. He further relied upon the judgment of this Court in *K.Rajendran v. Dhanabakkiam*⁴, in support of his submission that the admissions made in the pleading are by far the best proof of the facts and since the 1st respondent had admitted that she knew that the petitioner was married, her relationship cannot be recognised as marriage. The learned senior counsel had not seriously challenged the award of maintenance to the 2nd respondent herein.

(iii) The learned senior counsel further submitted that in the impugned order, two paragraphs have been mechanically cut and pasted

¹ (1991) 2 SCC 375

² (2015) 14 SCC 511

³ (2005) 3 SCC 636

⁴ 2026(5) CTC 209



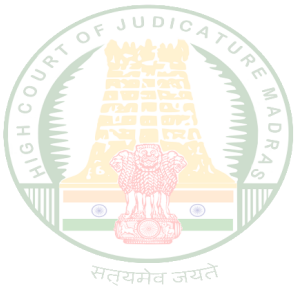
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from the order dated 01.10.2024 passed in MP Nos.840 of 2024 and 1205 of 2024 in MC.No.415 of 2023.

4. (i) Ms.B.Poongkhulali, the learned counsel for the respondents, however, would submit that the petitioner had not let in any evidence on his side; that the 1st respondent, on the other hand, had established that though she knew that the petitioner was married, she was made to believe that the petitioner had divorced his first wife; that the 1st respondent's relationship with the petitioner was continuous and the evidence adduced by the 1st respondent would show that there was a long cohabitation and in fact, the child was born out of the said relationship; that since the petitioner had not established that the first marriage was still in existence, the judgment in *Vimala's case* [supra] relied upon by the learned senior counsel for the petitioner would be of no avail to the petitioner; that the Hon'ble Supreme Court in *Badshah v. Urmila Badshah Godse and Another*⁵ held that a man cannot take advantage of his own wrong when he had duped the second wife into a belief that he had divorced his first wife and that therefore, the finding of the Family Court holding that the 1st respondent is entitled to maintenance cannot be faulted.

⁵ (2014) (1) SCC 188)



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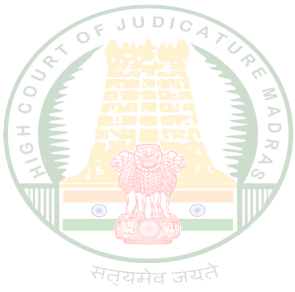
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(ii) The learned counsel further submitted that admittedly, the petitioner was earning over Rs.10 Lakhs per month and therefore, the quantum of maintenance awarded is reasonable, as it is commensurate with the status of the parties and relied upon the observations made in *Vimala's case* [supra], in this regard.

5. This Court has carefully considered the rival submissions and perused the impugned order and the materials placed by the parties.

6. Though the petitioner had initially denied paternity, he would state in his counter before the Family Court that the 1st respondent lured him and taking advantage of a weak moment, got conceived to gain unlawfully. He had also stated that he was willing to pay maintenance to the 2nd respondent. In fact, the learned senior counsel for the petitioner had not assailed the impugned order as regards the grant of maintenance to the 2nd respondent, though he would faintly submit that the quantum awarded is excessive.



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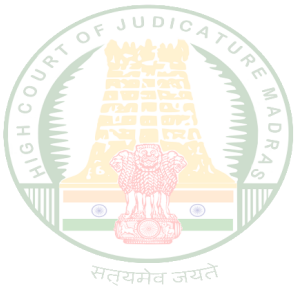
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7. This Court on perusal of the pleadings, other documents and considering the status of the petitioner and the 1st respondent, is of the view that the amount quantified by the Family Court at Rs.1,50,000/- payable to the 2nd respondent as maintenance cannot be said to be unjust.

8. As regards the 1st respondent, the primary contention of the petitioner is that the petitioner was already legally wedded; that there was no marriage between the petitioner and the 1st respondent; that even assuming that there was a marriage, she could only be treated as a second wife, who would not be entitled to maintenance; and that in any case, she had an independent source of income.

9. The learned senior counsel pointed out to the averments made in the petition of the 1st respondent wherein she has stated that she knew that the petitioner was already married. However, it is seen from the petition that though the 1st respondent had stated so, she had also stated that subsequently the petitioner convinced her and made her believe that he had obtained divorce. The 1st respondent had examined herself as PW1 and deposed to the same effect.



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10. Even in the cross-examination, she maintained that the petitioner made her believe that he had divorced his wife. In ***Badshah's case*** [supra], the Hon'ble Supreme Court had observed that if the husband had duped the second wife by not revealing the fact of his earlier marriage, he cannot deny maintenance to her by taking advantage of his own wrong. The relevant observations, read as follows:

“13..... We are dealing with a situation where the marriage between the parties has been proved. However, the petitioner was already married. But he duped the respondent by suppressing the factum of alleged first marriage. On these facts, in our opinion, he cannot be permitted to deny the benefit of maintenance to the respondent, taking advantage of his own wrong.”

11. In that case, the marriage was totally suppressed and in that context, the Hon'ble Supreme Court had held as stated above. The Hon'ble Supreme Court had also held the judgment of the Supreme Court in ***Savitaben Somabhai Bhatiya's case*** [supra], would apply only in those cases where a woman married a man with full knowledge of the facts of subsisting marriage. This Court is of the view that the fact that was suppressed by the petitioner in this case is the existence of a legal marriage by stating that he was divorced. In such circumstances, the



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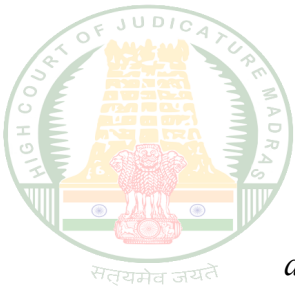
petitioner ought to have established that he never made such a representation and that the earlier marriage is subsisting. As stated above, the petitioner has not let in evidence to counter the evidence let in by the 1st respondent on this aspect.

12. The learned senior counsel relied upon a judgment of the Karnataka High Court in *Annapurna S.Hippargi v. Siddaram @ Siddaramappa Hippargi*⁶, wherein the Karnataka High Court had held that the lady claiming maintenance was aware that there was a decree of divorce and she had failed to verify whether an appeal was filed challenging the decree and therefore, she would not be entitled to maintenance. In fact, in that case, the second wife had not accused the husband of suppression of any fact. Therefore, the facts in that case are clearly distinguishable.

13. The learned senior counsel relied upon the observations made by the Hon'ble Supreme Court in *Vimala's case* [supra], which reads as follows:

“3. Section 125 of the Code of Criminal Procedure is meant to

⁶ Revision Petition Family Court NO.100123 of 2025 dt. 01.09.2026

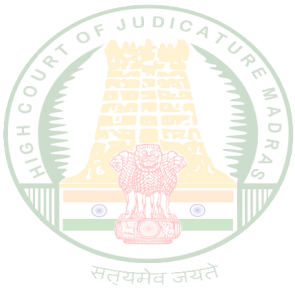


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achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. When an attempt is made by the husband to negative the claim of the neglected wife depicting her as a kept-mistress on the specious plea that he was already married, the court would insist on strict proof of the earlier marriage. The term 'wife' in Section 15 of the Code of Criminal Procedure includes a woman who has been divorced by a husband or who has obtained a divorce from her husband and has not remarried. The woman not having the legal status of a wife is thus brought within the inclusive definition of the term 'wife' consistent with the objective. However, under the law a second wife whose marriage is void an account of the survival of the first marriage is not a legally wedded wife and is, therefore, not entitled to maintenance under this provision. Therefore, the law which disentitles the second wife from receiving maintenance from her husband under Section 125, Cr. P.C., for the sole reason that the marriage ceremony though performed in the customary form lacks legal sanctity can be applied only when the husband satisfactorily proves the subsistence of a legal and valid marriage particularly when the provision in the Code is a measure of social justice intended to protect women and children. We are unable to find that the respondent herein has discharged the heavy burden by tendering strict proof of the fact in issue. The High Court failed to consider the standard of proof required and has proceeded on no evidence whatsoever in determining the question against the appellant. We are, therefore, unable to agree that the appellant is not entitled to maintenance."



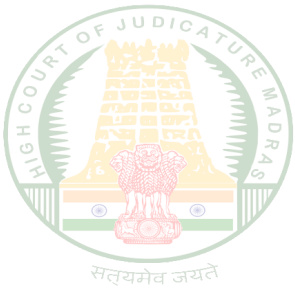
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14. Though the Hon'ble Supreme Court had held that a second wife, whose marriage is void on account of the existence of an earlier legal marriage, is not entitled to maintenance, the Hon'ble Supreme Court, as could be seen from the aforesaid observation, had also held that the burden is on the husband to establish that the earlier marriage was in subsistence.

15. This burden has not been discharged by the petitioner. Hence, this Court finds that the finding of the Family Court that the petitioner had deceived the 1st respondent to believe that he was a divorcee is based on evidence and cannot be said to be perverse, warranting interference in a revision.

16. As regards the second submission that the 1st respondent is not a legally wedded wife, it is the consistent view of the Hon'ble Supreme Court and this Court that the provisions of Section 125 Cr.P.C. is a measure of social justice intended to protect women and children and that '*wife*' as understood in Section 125 of the Cr.P.C. has a wide connotation and the marriage is to be presumed if a man and a woman are in a relationship for a long period time.



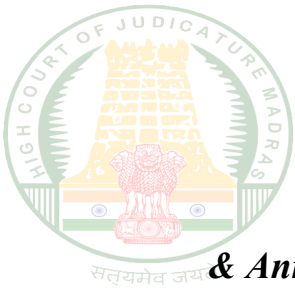
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17. In ***Badshah's case*** [supra], the Hon'ble Supreme Court had held as follows:

“20. Thus, while interpreting a statute the court may not only take into consideration the purpose for which the statute was enacted, but also the mischief it seeks to suppress. It is this mischief rule, first propounded in Heydon's Case[(1584) 3 C Rep 7a: 76 ER 637] which became the historical source of purposive interpretation. The court would also invoke the legal maxim construction ut res magis valeat quam pereat, in such cases i.e. where alternative constructions are possible the Court must give effect to that which will be responsible for the smooth working of the system for which the statute has been enacted rather than one which will put a road block in its way. If the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation should be avoided. We should avoid a construction which would reduce the legislation to futility and should accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about an effective result. If this interpretation is not accepted, it would amount to giving a premium to the husband for defrauding the wife. Therefore, at least for the purpose of claiming maintenance under Section 125, Cr.P.C., such a woman is to be treated as the legally wedded wife.”

18. In that case also, the husband claimed that the marriage was not established as per the law. In fact, while making the aforesaid observations, the Hon'ble Supreme Court had relied upon the observations made in ***Chanmuniya v. Virendra Kumar Singh Kushwaha***



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& Anr⁷, wherein the Hon'ble Supreme Court has held as follows:

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“42....“A broad and expansive interpretation should be given to the term “wife” to include even those cases where a man and woman have been living together as husband and wife for reasonably long period of time, and strict proof of marriage should not be a pre-condition for maintenance under Section 125 of the Cr.P.C. so as to fulfill the true spirit and essence of the beneficial provision of maintenance under Section 125.”

19. In **Chanmuniya's case** [supra], the Hon'ble Supreme Court had referred the following questions for adjudication by a larger Bench.

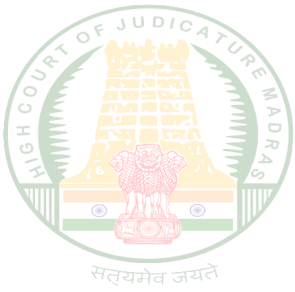
41.....

1. Whether the living together of a man and woman as husband and wife for a considerable period of time would raise the presumption of a valid marriage between them and whether such a presumption would entitle the woman to maintenance under Section 125 Cr.P.C?

2. . Whether strict proof of marriage is essential for a claim of maintenance under Section 125 Cr.P.C. having regard to the provisions of Domestic Violence Act, 2005?

3. Whether a marriage performed according to customary rites and ceremonies, without strictly fulfilling the requisites of Section 7(1) of the Hindu Marriage Act, 1955, or any other personal law would entitle the woman to maintenance under Section 125 Cr.P.C.?

⁷ (2011) 1 SCC 141



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20. Though it is reported that the larger Bench is yet to decide the above questions, this Court is of the view that the subsequent judgment in *Badshah's case* [supra], which agrees with the view in *Chanmuniya's case* [supra], would be binding on this Court. That apart, even assuming that factually and legally two views are possible, the view in favour of the wife / woman has to be preferred given the purpose for which the statute has been enacted.

21. Therefore, this Court is of the view that the standard of proof to establish the marriage in a claim under Section 125 Cr.P.C. cannot be the same as that is required to prove the offence of bigamy. Therefore, in a claim under Section 125 Cr.P.C. strict proof of marriage is not essential and if it is shown that the relationship was continuous and for a sufficiently long time, the marriage can be presumed.

22. In order to establish the said fact, the 1st respondent has examined herself as PW1. She had marked Ex.P3, the Birth Certificate of the child, wherein the 1st respondent is shown as the mother and the



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petitioner is shown as the father. In Ex.P4, the Aadhar Card of the 1st respondent, the petitioner is shown as the husband. In Ex.P5, the Aadhar Card of the 2nd respondent/child, the petitioner is shown as the father. She had also produced the photographs which were marked as Ex.P6 (series), which suggest that they were living together for a long period. Here again, the petitioner had not chosen to let in any evidence to counter the evidence adduced by the 1st respondent. In this case, there is no doubt whatsoever that the relationship was continuous and the petitioner treated the 1st respondent as his wife.

23. Hence, this Court is of the view that the stand of the petitioner that the 1st respondent is not entitled to maintenance, since she knew about the earlier marriage and that her marriage with the petitioner has not been established, cannot be accepted for the aforesaid reasons.

24. As regards the quantum, it is seen that the monthly income of the petitioner, which is found to be Rs.10 Lakhs per month by the Family Court, has not been disputed by the petitioner. It is the case of the petitioner that the 1st respondent has sufficient means to maintain herself



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and relied upon Ex.R1, which is the sale deed in respect of a flat purchased by her for Rs.1,70,00,000/-. The petitioner also would state that the 1st respondent has two luxury cars. These facts are not in dispute.

25. But the evidence reveals that after the child's birth, the 1st respondent did not have a regular source of income. No evidence to the contrary has been let in by the petitioner. The finding of the learned Judge in this regard, which is based on the evidence, cannot be faulted.

26. Considering the status of the parties and the fact that the 1st respondent had established that she had no regular source of income, the maintenance quantified at Rs.1,00,000/- is reasonable and no interference is called for. Therefore, for all the above reasons, this Court is inclined to dismiss the revision.

27. Before we part with this case, this Court has to necessarily deal with the submission of the learned senior counsel that paragraphs 37 and 38 in the impugned order have been cut and pasted from the order dated 01.10.2024 passed in MP Nos.840 of 2024 and 1205 of 2024 in



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MC.No.415 of 2023 and that is why in paragraph 37, the learned Judge has observed as follows:

“The 1st petitioner claims she is not IT assessee, which is not acceptable for a person purchasing property of such high value, and the same can be decided in the main MC.”

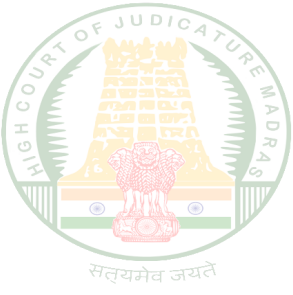
This is an error. Though, the subsequent paragraphs in the order reveals application of mind, this Court wishes to remind the learned Judge that such errors have to be avoided and she has to be careful in future.

28. Accordingly, the Criminal Revision is dismissed. The order dated 13.03.2026 passed by the learned VI Additional Principal Judge, Family Court, Chennai, in M.C.No.415 of 2023, is confirmed. Consequently, the connected Criminal Miscellaneous Petition is closed.

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To

The VI Additional Principal Judge,
Family Court, Chennai.

**Pre-delivery order in
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