**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**RESERVED ON : 29.08.2025**

**PRONOUNCED ON : 13.11.2025**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**CRL RC(MD)No.1148 of 2024**

Minor.Vikash,
Rep. by his Grandfather and
Guardian Karuppanan,
128/41C, Rajam Bhavanam,
Ashok Nagar,
Thirumangalam,
Madurai District. ... Petitioner

Vs.

Priya ... Respondent

**PRAYER:** Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the impugned order passed in M.C.No.62 of 2023 dated 21.12.2023 on the file of Family Court, Karur and set aside the same.

For Petitioner : Mr.S.Prabhu

For Respondent : Mr.J.Barathan

**ORDER**

***Prologue:***

"Marriage today is no longer a sacrament, but an art of

conciliation and adjustment."

2. This case epitomizes the tragic consequence of how modern domestic complexities can distort familial bonds. Here, a minor child has been thrust into the vortex of litigation, not to protect his welfare, but as an instrument to vent the latent animosity of an embittered father-in-law against his divorced and peacefully remarried daughter-in-law. What ought to have been a matter of parental care has been converted into a tool of vengeance, where the estranged husband, instead of acting with responsibility, has chosen to act through his father, making his own minor son a mere pawn in their continuing matrimonial discord.

3. This Court cannot remain oblivious to the persistent vulnerabilities faced by women, who, even after lawfully resolving their marital disputes and rebuilding their lives with dignity, are often dragged back into the shadows of hostility under one guise or another. The Court, therefore, stands vigilant to uphold the dignity, autonomy, and peace of womanhood, which are integral to the right to life guaranteed under Article 21 of the Constitution of India.

4. The present Criminal Revision Case has been filed by the petitioner, a minor child represented by his paternal grandfather, challenging the order dated 21.12.2023 passed by the learned Judge, Family Court, Karur, in M.C. No.62 of 2023, whereby the maintenance petition filed under Section 125 Cr.P.C. against the respondent–mother came to be dismissed.

***Background of the Case:***

5. The revision petitioner, Minor Vignesh, aged about 5 years, was born to one Anandaraj and the respondent Priya, D/o.Shakthivel, whose marriage was solemnized on 08.03.2009. Out of the said wedlock, the minor petitioner was born on 09.07.2010. Differences arose between the spouses, and after attempts at reconciliation failed, both of them filed H.M.O.P. No.118 of 2013 before the Subordinate Judge, Theni, seeking dissolution of marriage by mutual consent.

6. By order dated 14.02.2014, the said marriage was dissolved by a decree of divorce by mutual consent, wherein it was specifically recorded that the custody of the minor child would vest with the father, Anandaraj, and that the respondent–mother would not claim any

maintenance from her former husband in future. Correspondingly, the father undertook to maintain the child and not to seek any contribution or financial support from the respondent.

7. Pursuant to the said mutual agreement, both the biological parents remarried and have since been living separate and independent lives. The minor petitioner has been living under the care of his paternal grandparents at Karur. The father of the minor, who is employed with the Airport Authority of India, has been paying a monthly sum towards the maintenance of the child, apart from depositing Rs.1,60,000/- (Rupees One Lakh and Sixty Thousand only) in the child's name and maintaining a life insurance policy for the child.

***Findings of the Family Court:***

8. The learned Family Court, Karur, dismissed the petition filed under Section 125 Cr.P.C., holding that the paternal grandfather, not being the natural guardian, had no *locus standi* to maintain a maintenance petition on behalf of the minor in the absence of appointment as guardian by a competent Court. The natural guardian of the minor, being the father, was alive and financially capable. In view

of the mutual consent divorce decree, wherein the father had undertaken to maintain the child, the mother could not be directed to pay maintenance; and both the petitioner's grandfather and father possessed sufficient means to maintain the child, and hence, the petition lacked both legal foundation and bona fides.

9. Aggrieved thereby, the present Criminal Revision Case has been filed.

***Submissions of the petitioner:***

10. The learned counsel appearing for the petitioner submitted that both biological parents, after securing divorce, have remarried and are leading prosperous lives without any concern for the minor child. The father, though paying an insurance premium and having deposited a certain sum in the child's name, has failed to discharge his ongoing duty as a parent. Therefore, it was argued that the respondent–mother, being gainfully employed in a bank and earning a lucrative salary, must also bear a share of responsibility towards the child's maintenance, particularly for his educational and medical expenses. It was further submitted that the meagre pension received by the paternal grandfather

is insufficient to meet the growing expenses of the child, and that the Family Court erred in dismissing the petition on the hyper-technical ground that the father was alive.

***Submissions of the respondent:***

11. Per contra, the learned counsel for the respondent–mother submitted that the petition is an abuse of process, designed solely to disturb the peace and dignity of the respondent, who has since remarried and started a new family. It was argued that the mutual consent divorce decree expressly recorded that the custody of the minor would remain with the father and that the respondent would not claim nor be made liable for maintenance. It was further contended that the father, being the natural guardian under Section 6 of the Hindu Minority and Guardianship Act, 1956, is alive, employed at the Trichy Airport with a salary of around Rs.1,00,000/- (Rupees One Lakh only) per month, and fully capable of maintaining the child, in such circumstances, the paternal grandfather, who has not even impleaded his own son, cannot file a petition under Section 125 Cr.P.C. against the mother. The respondent's remarriage and settled family life cannot be intruded upon by reopening settled issues between divorced spouses. Hence, the dismissal of the maintenance petition by the learned Family

Court is legal and proper.

12. Heard the learned counsels on either side and carefully perused the materials available on record.

***Analysis:***

13. The central issue for consideration in this revision is whether the paternal grandfather is legally entitled to maintain a petition under Section 125 Cr.P.C., 1973, on behalf of the minor child against the mother, when the father, the natural guardian is alive, solvent, and has undertaken, by consent decree, to maintain the child.

13.1. ***On locus standi and legal guardianship:***

Section 125 Cr.P.C., 1973, confers a right upon certain categories of dependents: wife, legitimate or illegitimate minor child, and parents to seek maintenance from a person having sufficient means who neglects or refuses to maintain them. In the case of a minor, the petition ordinarily must be instituted by or through the natural guardian, who under Section 6 of the Hindu Minority and Guardianship

Act, 1956, is the father, and after him, the mother. In the present case, the father is very much alive and is financially capable. The paternal grandfather, unless appointed as a guardian by a competent Court under the Guardians and Wards Act, 1890, cannot assume the capacity of a natural guardian or file legal proceedings representing the child. Therefore, the Family Court's conclusion that the grandfather lacked *locus standi* is legally sound.

13.2. ***Effect of divorce by mutual consent:***

In H.M.O.P. No.118 of 2013, the parties, i.e., the father and the respondent–mother, had voluntarily entered into a mutual agreement under which: custody of the minor was vested with the father; The father undertook to maintain the minor child; The respondent–mother renounced any claim for maintenance from her husband; and both parties consented to dissolve their marriage by mutual consent. Such an arrangement, once accepted and recorded by a competent Court, attains finality. Neither party can, under the guise of a new proceeding, indirectly modify or nullify its effect. The attempt by the petitioner's grandfather to resurrect the issue of maintenance, by targeting the respondent–mother after years of her remarriage, runs contrary to the sanctity of that consent decree.

13.3. ***On misuse of proceedings and disturbance of peace:***

This Court cannot overlook the underlying motive behind the present revision. The respondent–mother has lawfully remarried and is now the mother of two children from her second marriage. She has not interfered in the life of her former husband or his family. The present proceeding, instituted by her former father-in-law, is in substance an attempt to disturb the calm and dignity of her new matrimonial life. It is indeed the moral and legal duty of both parents to co-parent and contribute to the child's well-being. However, such responsibility must be exercised within the bounds of mutual respect and final judicial determinations. When the parents have consciously agreed to a framework for the child's custody and maintenance, that arrangement must be honoured. Any attempt by one family branch to use the child as an instrument to reopen past marital discord amounts to judicial harassment and undermines the principle of co-parenting through peaceful separation.

13.4. ***Doctrine of co-parenting and right to peaceful remarriage:***

The institution of marriage and its dissolution carry not only

emotional but also societal implications. When two adults, through mutual consent, dissolve their marriage, the law expects them to extend parental cooperation without interfering in each other's reconstituted family lives. True co-parenting does not consist in litigating against one another but in ensuring that the child's welfare is secured through agreed means. In the instant case, the father's financial capacity is undisputed. The respondent–mother's legal obligation cannot be resurrected merely because she is employed. Her remarriage, stability, and peace are constitutionally protected aspects of her right to life and dignity under Article 21 of the Constitution of India. The Courts cannot permit former in-laws to intrude into that privacy by instituting repeated litigations under the pretext of child welfare when the legal guardian is alive and responsible.

***Epilogue:***

14. In the given circumstances of the instant case, I am of the considered view that, upon a comprehensive evaluation of the facts, pleadings, and legal principles, this Court finds no infirmity in the order of the learned Family Court, Karur. The dismissal of M.C. No.62 of 2023 was based on sound reasoning, both in law and equity.

15. The present revision is a misconceived attempt by the petitioner's grandfather to disturb the respondent's settled and peaceful family life, notwithstanding that the biological father of the minor, who is the petitioner's own son, is alive, capable, and bound by his own undertaking in the mutual consent divorce decree to maintain the child.

16. This Court deprecates such misuse of maintenance provisions to reopen closed chapters of matrimonial litigation and reiterates that co-parenting after divorce must be guided by cooperation, not confrontation. Parents who have lawfully chosen new paths must be permitted to live in peace, while ensuring that the child's welfare is safeguarded in the manner mutually agreed upon.

17. In view of the foregoing discussion, this Criminal Revision Case fails and the same is dismissed. The order dated 21.12.2023 passed in M.C. No.62 of 2023 on the file of the learned Family Court, Karur, is hereby confirmed. No costs.

**13.11.2025**

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

11/13

To

The Family court, Karur

**L.VICTORIA GOWRI, J.,**

Sml

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