

(1943) 04 MAD CK 0008
In the Madras High Court

Sellammal

APPELLANT

Vs

Muthuvira Muthirian

RESPONDENT

Date of Decision : 29-04-1943

Acts Referred:

Citation : AIR 1943 Mad 647 : (1943) 56 LW 413 : (1943) 2 MLJ 150

Hon'ble Judges : Kuppuswami Aiyar, J

Bench : Division Bench

Judgement

Kuppuswami Aiyar, J.—This is a reference by the learned District Magistrate of Trichinopoly for setting aside the order of the Sub-

Divisional Magistrate of Musiri dismissing a petition by a wife for maintenance. Her case was that she was beaten and driven out of the house and

she refused to share bed with her husband after marriage in view of the fact that he was suffering from venereal disease and she did not want to get

infected herself. In Court, the husband offered to take her and live with her and the learned Sub-Divisional Magistrate dismissed her petition.

2. As pointed out by the learned District Magistrate it is the duty of the Court to find whether there was sufficient justification for the wife not living

with the husband and claiming maintenance. It is certainly cruel on the part of a husband who has got venereal disease to insist upon his wife

sharing bed with him, and if this is cruelty, she will be entitled to maintenance. The order of the Sub-Divisional Magistrate dismissing the petition is

set aside. The petition will be restored to file and disposed of by the Sub-Divisional Magistrate of Musiri or by such other Magistrate as the District

Magistrate may think it necessary or proper to transfer it after giving an opportunity to both sides to let in necessary evidence.