

(1941) 04 MAD CK 0024
In the Madras High Court

Valliammai Ammal

APPELLANT

Vs

Dharmalinga Muthirian

RESPONDENT

Date of Decision : 09-04-1941

Acts Referred:

Citation : AIR 1941 Mad 762(1) : (1941) 54 LW 386

Hon'ble Judges : Lakshmana Rao, J

Bench : Division Bench

Judgement

Lakshmana Rao, J.—The petitioner and the counter-petitioner were living together till 1930 and the recitals in Ex. 2 the compromise of 1927 are irrelevant. Further, the plea of adultery was belated and as observed by the Joint Magistrate the evidence is worthless. The petitioner was not even questioned and the notice issued by the petitioner in 1937 for her maintenance was refused. No reply was sent to the notice issued in 1939 and the claim for maintenance is irresistible. The indebtedness of the counter-petitioner is no ground for dismissing the petition and the order of the Joint Magistrate cannot be sustained. It is, therefore, set aside and the petition is remanded to him for awarding the appropriate maintenance after taking further evidence on the point if desired.