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**(1950) 12 MAD CK 0009**

**Madras High Court**

**Case No:** Criminal Revision Case No. 1344 and Cri. Revision Petition No. 1269 of 1949

Sathayee

APPELLANT

Vs

Angappa Kone

RESPONDENT

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**Date of Decision:** Dec. 8, 1950

**Acts Referred:**

- Criminal Procedure Code, 1898 (CrPC) - Section 488

**Citation:** AIR 1951 Mad 719 : (1951) 1 MLJ 91

**Hon'ble Judges:** Govinda Menon, J

**Bench:** Single Bench

**Advocate:** C.S. Venkatachari and D. Ramaswami Iyengar, for the Appellant; Public Prosecutor, V. Parthasarathy and S. Krishnamurthi, for the Respondent

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**Judgement**

@JUDGMENTTAG-ORDER

Govinda Menon, J.

The order of the learned Sub-Divisional Mag. dismissing the appln. is unsustainable. According to the admitted custom

of the community to which the parties belong a man, after marriage, lives in his wife's family house, & becomes a part of it. He manages the

properties of his wife & mother-in-law & should consider himself as a member of that family. The resp.'s case is that on account of

misunderstandings & exchange of words he went away from his wife's house to Kanappamendal & has been living there ever since. It is not his

case that the petnr., or her mother had made it irksome or impossible for him, to live with his wife. Therefore the desertion is by the reap. & it is

not a case of the wife driving out the husband from her roof. If the custom of the community which has been recognised as legally enforceable is to

be accepted, then the resp. has to look after the wife by living in her house, & if he does not do so, he will be liable to an order of maintenance u/s

488, Cr. P. C. Therefore I direct that if the repp. returns to the petnr.'s house before 16-1-1951 & lives there, as he used to do looking after the

properties, tending the goats & sheep, & augmenting the income, then he will not be liable to pay any maintenance. In default of the repp. doing so,

he will be bound to pay a sum of Rs. 10 p. m. to the petnr. as maintenance.