



CNR: KAHC010662392025

NC: 2026:KHC:42494
RPFC No. 284 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

REV.PET FAMILY COURT NO. 284 OF 2025

BETWEEN:

1.

2.

...PETITIONERS

(BY SRI. GOPALAKRISHNAMURTHY C., ADVOCATE)

Digitally signed
by AASEEFA
PARVEEN

AND:

Location: HIGH
COURT OF
KARNATAKA

...RESPONDENT

(BY SRI. SHARATH M., ADVOCATE (ABSENT))

THIS RPFC FILED UNDER SEC.19(4) OF FAMILY COURTS
ACT., AGAINST THE ORDER DATED 5.07.2025 PASSED IN CRL.
MISC NO.251/2022 ON THE FILE OF PRL. JUDGE, FAMILY



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COURT, MYSURU., DISMISSING THE PETITION FILED UNDER SEC.125 OF Cr.P.C., FOR MAINTENANCE.

THIS PETITION, COMING ON FOR UNDER THE CAPTION 'PART-HEARD' IN ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL ORDER

The matter was heard on petitioner's side on 29.07.2026. There was no representation on respondent's side on that day. To give fair opportunity to the respondent to make his submission on the merits of the matter the case was adjourned. However, even on this day there is no representation on respondent's side.

2. Challenge in this revision petition is the order that is rendered by the Court of Principal Judge, Family Court, Mysuru, in CrI.Misc.No.251/2022 dated 05.07.2025.

3. Revision petitioners filed a petition before the Family Court invoking Section 125 Cr.P.C. and seeking maintenance from the respondent herein. Their claim for



maintenance was dismissed by the Family Court and aggrieved by the same, this revision petition is filed.

4. Sri.Gopalakrishnamurthy C., learned counsel for the petitioners submitted that the petition filed by the petitioners claiming maintenance was dismissed on the sole ground that they failed to claim maintenance from the respondent for a long period and lapse of time disentitled them to claim maintenance. Learned counsel thereby sought to set aside the impugned order.

5. The case of the revision petitioners as borne by record is that the marriage of the first petitioner with the respondent was solemnized and was registered before the Registrar of Marriages. On 19.06.1999, the wedlock resulted in birth of second petitioner. Petitioner No.1 and respondent led marital life at Sinduvallipura Village, Mysuru District. On account of business of respondent, they shifted the residence to Mysuru after the birth of second petitioner and started residing at Mysuru. Respondent started ill-



treating petitioner No.1 by demanding dowry at the instigation of his mother and finally he drove the petitioners out of the house. On that they started residing at the house of the father of first petitioner. Thereafter, respondent married one RW.2 during the subsistence of the first marriage. First petitioner started doing coolie work in order to look after the second petitioner. Respondent totally neglected to maintain them. Respondent runs a provision store and is also an agriculturist and thereby he earns Rs.1,00,000/- to Rs.1,50,000/- per month and is leading a lavish life with his second wife.

6. The case of respondent on the other hand is that, the first petitioner is not his legally wedded wife. First petitioner approached police of Nanjangud. Police summoned him and insisted him to marry first petitioner and therefore the marriage was registered before the Registering Authority in the year 1999. After marriage first petitioner went to her home town. They never led marital



life and marriage was not consummated. He was shocked to know the birth of second petitioner on 19.06.1999. On enquiry he came to know that first petitioner had already married one Umapathy and second petitioner was born to her through said Umapathy. First petitioner filed a maintenance case against him in Crl.Misc.No.78/2004 and said petition came to be dismissed. Further more, the version of the petitioners about his financial status is false. First petitioner is owning movable and immovable properties and therefore petitioners are not entitled for any maintenance.

7. Subjecting the evidence of PW1, RWs.1 to 4, Exs.P1 to P23 and Exs.R1 to R7 to scrutiny, Family Court, Mysuru came to a conclusion that petitioners are not entitled to claim any maintenance from the respondent and thereby dismissed their petition. Family Court discussed at length with regard to existence of marital relationship between the first petitioner and respondent and ultimately



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came to a correct conclusion that such relationship exists between them. Also Family Court discussing about the issue of paternity, holding that the relationship between petitioner No.2 - daughter and respondent - father is established even through DNA examination held that the scientific report probablises the claim of the first petitioner that out of her relationship with the respondent, second petitioner was born to them. The Family Court at para 25 of the impugned order observed as follows;

*"25. **Point Nos.2 & 3**: Since both these points are inter connected, they are tried together to avoid repetition of facts. No doubt the petitioners could prove before the court that PW.1 and RW.1 had relationship and lived together and out of their relationship, the second petitioner is born to them and as such they have sought for maintenance against RW.1, but whether they could satisfy the requirements of Section 125 of Cr.P.C. is the material aspect which requires consideration. The respondent has categorically stated that*



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even as per the claim of PW.1, she got married him in the year 1994 and after the birth of the second petitioner in the year 1999, they shifted their residence to Mysuru and when the second petitioner was two years old, RW.1 by demanding dowry started harassing her and it is her further grievance that ultimately when his illegal demand could not be fulfilled by her, he drove both the petitioners out of the house on 15.02.2021 and since then they have been residing away from RW.1. As rightly argued by the learned defence counsel even according to the claim of PW.1, in the year 2001 the respondent had driven her out of the matrimonial home. Under such circumstances, the reasonable question certainly arises as to what had prevented the petitioners for all these years for about more than 24 years from taking appropriate legal action against RW.1 if really he had neglected them or driven them out of his house. Since 2001 till 2022 no such action has been taken by the petitioners for seeking maintenance from him."

Also at para 27 it is held as under:



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27. According to her own claim, since 2001 both the petitioners have taken shelter in the house of her father. It is alleged that since then the respondent has not make any provision for their maintenance. It is further pertinent to note that in para 5 of her petition it is alleged that after the marriage RW.1 once again entered into second marriage with RW.2 and begot two issues through her i.e. RWs.3 and 4. It has not been stated when PW.1 came to know about the said marriage of RW.1 and RW.2. It is further relevant to note that even after coming to know about the marriage of RW.1 and RW.2, PW.1 has not taken any legal action against them. All these circumstances and the conduct of PW.1 also lead to an inference that she had ratified the acts of RW.1 and RW.2 even if RW.1 had entered into second marriage with RW.2 and had similar relationship with PW.1. Therefore, the in-action on the part of PW.1 to take appropriate legal action against him for all



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these years, also certainly casts doubt about the bonafides of her claim."

8. It is pertinent to mention that the Family Court failed to appreciate the provisions of law properly and apply them to the case on hand.

Section 125 Cr.P.C. reads as under

"125. Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain -

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct :



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Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation. - For the purposes of this Chapter, -

(a)"minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority;

(b)"wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not re-married.

(2) Any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the



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date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due:

Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation. - If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance for the maintenance or the interim maintenance and expenses of proceeding, as the



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case may be, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5)On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order."

9. Thus, the provision makes it clear that if the husband having sufficient means neglects or refuses to maintain his wife who is unable to maintain herself or his children either legitimate or illegitimate minor children who are unable to maintain themselves or legitimate or illegitimate child not being a married daughter who has attained the age of majority, where by reason of any physical or mental abnormality or injury unable to maintain themselves, they are entitled to claim maintenance and upon proof of such neglect or refusal, Competent Court has to make an order of monthly allowance to be paid towards maintenance of those persons. Also father or mother who



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are unable to maintain himself or herself are entitled to claim maintenance from their children where those children having sufficient means neglects or refuses to maintain them.

10. Chapter IX Cr.PC which deals with order for maintenance of wives, children and parents, commencing from Section 125 and continuing till Section 128, nowhere mentions that the claim of maintenance has to be raised either by wife or children or parents within such time of refusal by the husband or father or son or daughter as the case may be. Thus, it is clear that they are entitled to claim maintenance by filing necessary application before the Competent Court at any time till they are entitled to receive such maintenance. Only because the wife and child have not claimed maintenance immediately on neglect or refusal by the person who is bound to maintain them, their legitimate right cannot be deprived.



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11. Another pertinent factor is that the petitioners in the year 2004 itself filed a petition under Section 125 Cr.P.C. seeking maintenance from the respondent. The contents of Ex.R2 reveals filing of such a petition before the Family Court, Mysuru and that it came to be numbered as Crl.Misc.78/2004. The contents of Ex.R1, certified copy of proceeding sheet produced by respondent himself reveals that Crl.Misc.78/2004 was dismissed on 18.07.2007 due to non-prosecution.

12. As there is no limitation for filing a petition under Section 125 Cr.P.C. seeking maintenance, even if the petitioners have not filed any such petition for maintenance as could be found through Exs.R1 and R2, yet they are entitled to claim maintenance by filing a petition subsequently. That apart the case in Crl.Misc.No.78/2004 was not disposed of on merits. Therefore, Family Court, Mysuru, ought to have disposed of the case on merits. Also Family Court has not given any finding whether second



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petitioner - daughter is entitled for maintenance as she filed an application after attaining the date of majority, and if so on what grounds. Therefore, this Court is of the view that setting aside the impugned order, the matter is liable to be remanded to the Family Court, Mysuru to subject the evidence produced to scrutiny and to pass appropriate orders. On merits, it is made clear that first petitioner is entitled for maintenance to be received from the respondent herein. No further enquiry in that regard is required. Family Court shall fix the quantum.

13. Thus, the revision petition is disposed of with the following:

ORDER

- i) The revision petition is allowed.
- ii) The order that is rendered by the Court of Principal Judge, Family Court, Mysuru, in



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Crl.Misc.No.251/2022 dated 05.07.2025 is set aside.

iii) The case is remanded to the Court of Principal Judge, Family Court, Mysuru.

iv) The Court of Principal Judge, Family Court, Mysuru, is directed to subject the evidence that is brought on record to scrutiny, hear both sides and give findings with regard to the following aspects.

a) To what extent of amount the first petitioner is entitled to receive from the respondent towards maintenance and from when.

b) Whether the second petitioner is entitled to receive maintenance from respondent and if so, from when and to what amount?



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- v) Every endeavour be made to dispose of the case time bound preferably within a period of three months from the date of receipt of copy of this order.
- vi) Registry is directed to forward copy of this order to the Court of Principal Judge, Family Court Mysuru forthwith.

The revision petition is accordingly disposed of.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

AP
CT:TSM
List No.: 1 Sl No.: 14