



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 3011 OF 2023

BETWEEN:

SRI HARISH R.,
S/O LATE T.RAMEGOWDA
AGED ABOUT 45 YEARS
RESIDENT OF HALE UNDAWADI VILLAGE
ILAWALA HOBLI
MYSURU TALUK AND DISTRICT – 570 001.

...PETITIONER

(BY SRI SUDHINDRA S.A., ADVOCATE)

AND:

1. SMT.SOWMYA
W/O HARISH
AGED ABOUT 36 YEARS.
2. SRI MANAMOHAN
S/O HARISH R.,
AGED ABOUT 17 YEARS
MINOR,
REPRESENTED BY GUARDIAN MOTHER
SOWMYA
W/O HARISH

BOTH ARE RESIDING AT:
HOSA KANNAMBADI VILLAGE
CHINAKURALI HOBLI



PANDAVAPURA TALUK
MANDYA DISTRICT – 571 434.

...RESPONDENTS

(BY SMT.SOWMYA, R-1 PARTY-IN-PERSON;
SRI SURYA DEV R., ADVOCATE FOR R-2)

THIS CRL.P FILED U/S.482 CR.P.C PRAYING a) TO SET ASIDE THE ORDER DATED. 22.11.2022 IN DISMISSING THE CRL.RP.NO.5012/2022, PASSED BY THE III ADDL.DISTRICT AND SESSIONS JUDGE, MANDYA (SITTING AT SRIRANGAPATNA); b) SET ASIDE THE ORDER DATED. 03.02.2022 IN CRL.MISC.NO.221/2011 ON THE FILE OF THE ADDL.CIVIL JUDGE AND J.M.F.C AT PANDAVAPURA.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

Petitioner-husband is at the doors of this Court calling in question an order dated 22-11-2022 rejecting the Criminal Revision Petition No.5012 of 2022 affirming the order of the learned Magistrate dated 03-02-2022, by which the learned Magistrate had granted maintenance of ₹ 8,000/- each to the wife and the son of the petitioner.



2. Facts in brief, germane, are as follows:

The petitioner and the first respondent get married on 16-06-2003. The relationship of the husband and wife appears to have floundered and on floundering of the relationship, several proceedings are instituted by the husband and the wife against each other. The present proceeding concerns Criminal Miscellaneous No.221 of 2011 which is filed under Section 125 of the Cr.P.C. The concerned Court, by its order dated 03-02-2022 orders maintenance at ₹ 8,000/- each to the wife and the child. The petitioner challenges it before the Court of session only to be dismissed. The twin orders are called in question before this Court in the subject petition.

3. Heard Sri Sudhindra S. A., learned counsel appearing for petitioner, 1st respondent party-in-person and Sri Surya Dev R., learned counsel appearing for respondent No.2.

4. The learned counsel appearing for the petitioner would vehemently contend that the petitioner is not in a position to fulfill the order of maintenance at ₹16,000/- per month from the date of the petition, as he is today without any work. He



would further contend that the complainant herself is an advocate who is enrolled and earns more than the husband. Therefore, the order of maintenance which is passed without even looking into the judgment of the Apex Court should be obliterated.

5. Per contra, learned counsel appearing for the 2nd respondent would submit that the conduct of the petitioner will have to be looked into, as the order that is passed on 03-02-2022 is even today not complied with by the petitioner. Arrears are mounted to the tune of ₹21,00,000/-, to which the entire account is placed. The learned counsel submits that the petition must be dismissed for the law to take its course.

6. The 1st respondent/wife who appears in person also would seek dismissal of the petition and submits that she is suffering from ill health which has not permitted her to practice even for a day and therefore the maintenance that is awarded by the concerned Court must not be interfered with.



7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts lie in a narrow compass, as the issue that drives the petitioner-husband to this Court is with regard to the payment of maintenance. The concerned Court, in terms of its order dated 03-02-2022, awards maintenance by a detailed order, considering the financial position of both the petitioner and the 1st respondent. The order reads as follows:

"ORDER

- The petition filed by the petitioners U/s 125 of Cr.P.C is hereby partly allowed with cost.
- The petitioner No.1 is entitle for maintenance of Rs.8,000/- and petitioner No.2 is entitle for maintenance of Rs.8,000/-per month from the date of this petition.
- Petitioner No.2 is entitled for the maintenance till he is able to earn substantial income."

This is challenged before the Revisional Court. The Revisional Court in Crl.R.P.No.5012 of 2022 rejects the revision petition,



again by a detailed order. The reasons rendered by the Revisional Court are as follows:

" "

26. It is borne out from the records that after the marriage the first petitioner has persued Law study at Vidhyavardaka College, Mysuru. In order to substantiate this aspect of the matter, the petitioner has produced fee paid receipts at Ex.P71 to Ex.P91. It is not the contention of the respondent that it is who has provided education in law to the first petitioner. The cumulative effect of evidence placed on record is that the first petitioner with the help of her parents borne the educational expenses of the second petitioner and her medical expenses.

27. No doubt, the respondent has taken the contention that the first petitioner has got sufficient income to maintain herself as she is practicing Advocate, but it does not mean to say that she is capable of maintaining her son. When respondent has got sufficient income from agriculture and business he is duty bound to maintain his legally married wife and legitimate son. In the circumstances, the grounds urged by the respondent that the trial Court is not at all justified in awarding the maintenance is not in accordance with the materials that are placed on record.

28. Before this Court, it was argued that the quantum of maintenance awarded by the trial Court is not proper. This contention is cannot be accepted because the trial judge has appreciated both oral and documentary evidence in a proper manner and awarded monthly maintenance of Rs.8,000/- each to the petitioners. The fact that the respondent has already deposited Rs.6,00,000/- before the trial Court in due compliance of the orders of the Magistrate is not in dispute. This is sufficient to hold that the respondent is capable for paying maintenance to the petitioners.

29. Thus, on reappriciation of materials placed on record, this Court is of the opinion that awarding monthly maintenance of Rs.8,000/- each to the petitioners has not



resulted in miscarriage of justice. The awarding maintenance to the tune of Rs.8,000/- per month is reasonable and hence, there is no mistake apparent in the orders of the trial Court and hence, it does not call for any interference. Accordingly, it is held that the trial Court is justified in awarding monthly maintenance of Rs.8,000/- each to the petitioners. Accordingly, point No.1 is answered in Affirmative.

30. **POINT NO.2:-** In view of my findings on point No.1 as given herein above, I proceed to pass the following:

ORDER

The revision petition filed U/Sec.397 of Cr.P.C. is hereby dismissed.

Resultantly, the order in Criminal Misc. No. 221/2011 dated 03.02.2022 on the file of Addl. Civil Judge and JMFC, Pandavapura is hereby stands confirmed.

The office is directed to send back TCR along with a copy of this order to the trial Court forthwith."

9. The issue now would be, whether to accept the submission of the learned counsel for the petitioner that the petitioner has no avocation today and therefore, the maintenance that is awarded 4 years ago is not complied with even to its semblance.

10. Reference being made to the judgment of the Apex Court in the case of **ANJU GARG v. DEEPAK KUMAR GARG**¹,

¹ 2022 SCC OnLine SC 1314



becomes apposite in the present circumstance and it reads as follows:

"10. This Court had made the above observations as the Court felt that the Family Court in the said case had conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In Chaturbhuja v. Sita Bai, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India.

11. The Family Court, in the instant case had not only over-looked and disregarded the aforesaid settled legal position, but had proceeded with the proceedings in absolutely pervert manner. The very fact that the right of the respondent to cross-examine the witnesses of the appellant-original applicant was closed, as he had failed to appear before the Family Court despite the issuance of warrants, clearly established that he had no regards for his own family nor had any regards for the Court or for the law. The allegations made by the appellant-wife in her evidence before the Court had remained unchallenged and, therefore, there was no reason for the Family Court to disbelieve her version, and to believe the



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oral submissions made by the learned counsel appearing for the respondent which had no basis. In absence of any evidence on record adduced by the respondent disputing the evidence adduced by the appellant, the Family Court could not have passed the order believing the oral submissions of the learned counsel for the respondent. She had clearly stated as to how she was harassed and subjected to cruelty by the respondent, which had constrained her to leave the matrimonial home along with her children, and as to how the respondent had failed and neglected to maintain her and her children. She had also proved by producing the documentary evidence that her father had paid money to the respondent from time to time to help the respondent for his business. Even if the allegations of demand of dowry by the respondent were not believed, there was enough evidence to believe that money was being paid to the respondent by the father of the appellant-wife, which substantiated her allegation that the respondent was demanding money from her father and was subjecting her to harassment. The errant respondent had also gone to the extent of questioning her chastity alleging that Rachit was not his biological son. There was nothing on record to substantiate his such baseless allegations. His application for DNA test was also rejected by the Family Court. Of course, the Family Court granted the Maintenance petition so far as the appellant no. 2-son was concerned, nonetheless had thoroughly mis-directed itself by not granting the maintenance to the appellant-wife.

12. Such an erroneous and perverse order of Family Court was unfortunately confirmed by the High Court by passing a very perfunctory impugned order. The High Court, without assigning any reasons, passed the impugned order in a very casual manner. This Court would have remanded the matter back to the High Court for considering it afresh, however considering the fact that the matter has been pending before this Court since the last four years, and remanding it back would further delay the proceedings, this Court deemed it proper to pass this order.



13. Though it was sought to be submitted by the learned counsel for the respondent, and by the respondent himself that he has no source of income as his party business has now been closed, the Court is neither impressed by nor is ready to accept such submissions. The respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child. Having regard to the evidence of the appellant-wife before the Family Court, and having regard to the other evidence on record, the Court has no hesitation in holding that though the respondent had sufficient source of income and was able-bodied, had failed and neglected to maintain the appellants. Considering the totality of facts and circumstances, we deem it proper to grant maintenance allowance of Rs. 10,000/- per month to the appellant-wife, over and above the maintenance allowance of Rs. 6,000/- granted by the Family Court to the appellant no. 2-son.

14. It is accordingly directed that the respondent shall pay maintenance amount of Rs. 10,000/- per month to the appellant-wife from the date of filing of her Maintenance Petition before the Family Court. The entire amount of arrears shall be deposited by the respondent in the Family Court within eight weeks from today, after adjusting the amount, if any, already paid or deposited by him."

(Emphasis supplied)

The Apex Court holds that if the husband has no job, it is for him to search for a job. He has a job that pays less salary, it is for him to search for a job that pays higher salary and take care of the wife and the child. The child and the wife cannot be left in the lurch.



11. The submission of the learned counsel for the petitioner that the son is today 20 years would have merited acceptance and the order of the concerned Court would have been tweaked, only if the petitioner had complied with the orders by paying maintenance of the aforesaid amount that is now pending, to be paid to the hands of the respondents. In the light of the said circumstance, solely on the conduct of the petitioner, the petition does not deserve any merit.

12. Further, the submission of the learned counsel for the petitioner that the judgment in the case of **RAJNESH v. NEHA, (2021) 2 SCC 324** has not been followed by the concerned Court is noted only to be rejected. Apart quoting the judgment of the Apex Court in the case of **RAJNESH v. NEHA**, a perusal at the order of the Revisional Court would indicate that it has undertaken a scrutiny even beyond what the Apex Court has directed in **RAJNESH v. NEHA**. Even otherwise, the conduct of the petitioner does not entitle any indulgence at the hands of the accused.



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For the aforesaid reasons, the petition stands
dismissed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

BKP
List No.: 2 Sl No.: 66