

KARC510084602022



IN THE COURT OF PRINCIPAL CIVIL JUDGE & JMFC
SINDHANUR

Present: KOTEPPA KAMBLE,

B.Com., LL.B.,
Prl. Civil Judge & JMFC,
Sindhanur.

CRL.MISC. No.2029/2022

DATED THIS THE 06TH DAY OF APRIL-2023

BETWEEN:

Smt. M.Annapurna
W/o. Mariswamy,
Age: 28 years,
Occ:Household,
R/o.Nandihall Kukkaragol,
Tq: Gangavathi, Now residing at
Ganganagar, Sindhanur.

.....Petitioner.

(By Sri.JR., Advocate)

AND:

Sri.Mariswamy
S/o.Kori Lingappa,
Age: 32 years,
Occ: Agriculture
R/o. Nandihall Kukkaragol,
Tq: Gangavathi.

.....Respondent.

(Exparte)

ORDERS ON MAIN PETITION

The petitioner filed this petition U/Sec.125 of Cr.P.C. praying to award Rs.10,000/- per month as maintenance from the respondent.

2. The case of the petitioner in brief is as follows :- It is the case of the petitioner that, she is the legally wedded wife of the respondent. Their marriage was solemnized on 03.06.2013 at Kalmatha, Sindhanur town as per caste, custom and rituals prevailing in their community. They lead happy life for a period of 02 year, the petitioner could not conceive. Thereafter, the respondent addicted to bad habits, as such the respondent and his parents picked up quarrel with this petitioner. They started to harass the petitioner for silly reasons and started to demand additional dowry of Rs.3.00 lakhs. Thereafter the parents of petitioner conveyed a panchayath with the help of elders and well wishers. They advised the respondent, but all went in vain. The family members of respondent used to instigate the respondent against the petitioner, as such he used to assault the petitioner. The respondent neglected

the petitioner without providing proper food, medicine, cloth and shelter. Further, after six months, the respondent and his family members were kicked-out the petitioner from their house. Thereafter, the petitioner with the help of elders reconciles the matter, but same is in vain. Thereafter, the petitioner went to her parent's house and elder of petitioner's village, requested to respondent to provide the maintenance, but same is flatly refused by the respondent.

3. The respondent is an agriculturist and his family owning 05.00 acres of agricultural land and also respondent is working as Driver. As such out of all these, the respondent is earning Rs.10,000/- per month. The petitioner is no source of income to maintain herself. Thereby the petitioner is required monthly maintenance of Rs.10,000/- per month, for her food, shelter, clothing and medicines etc., Hence, this petition.

4. Despite due service of notice to the respondent, he did not appear before this Court. Hence, he placed ex-parte.

5. In order to prove the case, the petitioner got examined herself as PW-1 and filed her evidence by way of affidavit in lieu of chief examination. She produced documents which are marked as Ex.P-1 to P-3.

6. Heard the learned counsel for the petitioner.

7. Based on the above pleading and evidence, the following points arise for my consideration.

1. Whether the petitioner proves that the respondent has refused and neglected to maintain her?
2. Whether the petitioner proves that she is unable to maintain herself?
3. Whether the petitioner proves that the respondent is having sufficient means to maintain her?
4. Whether the petitioners are entitled for the relief of maintenance as claimed for?
5. What order?

8. My answers to the above points are as under;

Point No.1: In the Affirmative.

Point No.2: In the Affirmative.

- Point No.3:** In the Affirmative.
- Point No.4:** In the Partly Affirmative.
- Point No.5:** As per final order, for the following;

//REASONS//

09. POINT NO.1 to 3: These points are interlinked with each other, to avoid repetition of facts and circumstances they are taken together for common discussion.

10. The petitioner filed this petition praying for directing the respondent to pay maintenance of Rs.10,000/- per month. In order to prove her case, she examined herself as PW.1. She filed her chief examination by way of affidavit and documents were marked as Ex.P-1 to P-3.

11. The Ex.P-1 is the record of right. The Record of Right clearly shows that the RTC extracts is standing in the name of his father, but not in the name of respondent. Thereby the respondent is not the exclusive owner of the

said land. Ex.P-2 is the wedding invitation card, Ex.P-3 is the Aadhar card of petitioner.

12. The PW-1 reiterated the averments of petition in her chief examination. The said petition clearly shows that the respondent refused to provide the separate maintenance to the petitioner. The petitioner is not having any source of income to maintain herself and she is unable to maintain herself.

13. The petitioner contended that, she has no source of income. The respondent is having sufficient income from agricultural about Rs.40,000/- per month. He is capable to maintain the petitioner. The petitioner has produced documents to show that the respondent is having any agricultural land, which is standing in the name of his father and he is having share in the same. However, respondent is having obligation to maintain his wife, as he is having sufficient source of income to maintain her. The respondent is working as driver and earning for his livelihood. It is his obligation to maintain his wife by providing basic amenities. In the present case though the

respondent is having sufficient income from agricultural and driving work, he has not provided any maintenance to the petitioner. The evidence of PW-1 and documents produced by the petitioner are remained unchallenged and un-rebutted. Therefore, there is no other option but to accepting and believing the case of petitioner. **Hence, I answer point No.1 to 3 in the Affirmative.**

14. Point No.4:- It is proved that the respondent refused and neglected to maintain the petitioner. She has no sufficient source of income. The respondent has sufficient source of income to maintain her. The petitioner clearly contended that, the respondent doing agricultural work and driving though he is getting income from these work. But she has not produced any documents to show that he is doing the same. It shows that the petitioner has no evidence to prove the same.

15. The petitioner sought maintenance of Rs.10,000/- per month. But she admitted that she is unable to doing any work. The respondent did not appear

before the Court and not contest the case. In the absence of material documents about work of respondent, it is difficult to hold that he is having such income. A perusal of materials placed on record, it reveals that the family of petitioner is a middle class family. Now a days minimum Rs.5,000/- maintenance is sufficient and necessary to the petitioner for food, health, cloth and shelter, etc. Hence, the respondent is liable to pay Rs.5,000/- per month to the petitioner as maintenance. **Hence, I answer point No.4 in the Partly Affirmative.**

16. POINT NO.5: In view of the above discussion, I proceed to pass the following;

ORDER

**The petition filed by the petitioner
U/Sec.125 of Cr.P.C. is partly allowed.**

**The petitioner is entitled for
maintenance of Rs.5,000/- per month, till
her life time from the date of petition.**

**The respondent is hereby directed to
pay maintenance of Rs.5,000/- per month
to the petitioner from the date of petition.**

(Dictated to the stenographer, typed by her, corrected by me, then pronounced
by me in the open court this the 06th day of April-2022)

(KOTEPPA KAMBLE)
Prl. Civil Judge & JMFC,
Sindhanur.

: ANNEXURE:

Witnesses examined for the petitioners:

PW.1 : Smt.Annapurna

Witnesses examined for the respondent:

-Nil-

Documents marked for the petitioners:

Ex.P-1 : RTC extract.
Ex.P-2 : Wedding invitation card.
Ex.P-3 : Aadhar card

Documents marked for the respondent:

-Nil-

Prl. Civil Judge & JMFC,
Sindhanur.