

IN THE COURT OF CIVIL JUDGE AND JMFC, SANDUR

PRESENT

Sri. MD. SHAIZ CHOUTHAI,

B.A.,LL.B.(Hons.), LL.M.

Civil Judge & JMFC, Sandur.

Crl.Misc. No.479/2023

Dated this the 24th day of July 2025

Petitioner/s : Sandhya Mokhasi @
Sandhya Nagendra Salanki
and 2 Others

(By Sri. A.H.S., Advocate)

V/s

Respondent/s: Raghunath Rao Rajaba Mokhasi,
S/o Rajaba Mokhasi,
Age: 34 years,
R/o Giriyal plot, Plot No.14 (post),
Katnur Taluk, Hubli District.

(By Sri. R.D.R., Advocate)

IA. No.1

Applicant : Sandhya Mokhasi @
Sandhya Nagendra Salanki

V/s

Opponent : Raghunath Rao Rajaba Mokhasi

ORDER ON I.A.No.1 FILED UNDER SEC. 125(1) OF Cr.P.C.

1) The instant application is filed by petitioner no.1 against her husband/respondent and sought interim maintenance of Rs. 15,000/- in her favour.

2) The petitioner no.1 is the legally wedded wife of respondent. Their marriage is solemnized on 01.03.2012 at Adarshya Kalyana Mantapa, Sandur as per the caste and customs prevailing in their community. Out of their wedlock petitioner no.2 and 3 are born.

3) It is alleged that during the marriage, the respondent was given 1 tola of gold and her parents spent Rs.2,00,000/- to perform the marriage. Their marriage is still subsisting and not dissolved by the court of law. After the marriage, the petitioner No.1 led marital life with respondent for about 6 years. Thereafter, the respondent started ill-treating her and gave mental harassment and abused her parents.

4) It is contended that on 05.01.2022 the respondent and his father sold landed property bearing Sy. No. 3, measuring 1.14 acres and Sy. No.2, measuring 2.26 acres to one Parashuram Pawar, for consideration of Rs.35,00,000/- by forcibly taking her signature as consenting witness to the registered sale deed with an assurance that the amount will be deposited in the name of her children i.e., petitioner No.2 and 3. When the petitioner No.1 asked the respondent about the deposits, he, his father and his brother started quarreling and assaulted her by abusing in filthy language and thereby, gave physical and mental torture. The petitioner No.1 was not provided with food and shelter. The respondent while consuming alcohol use to come home late night and beat her by using vulgar language.

5) The parents of the petitioner No.1 are not in a position to look after her. The respondent is running wholesale business of fruits and getting income of Rs.30,000/- per month. In addition to this, he had land and house property in Hubballi. However, the respondent neglected the petitioners and failed to provide basic

necessities like food, shelter and medical expenses. On these grounds she prays to grant her interim maintenance.

6) After the issuance of notice, the respondent appeared through his counsel and filed objections to the main petition and also interim application. The petitioner no.1 and respondent have filed their affidavit in *lieu* of assets and liabilities.

7) The respondent admitted the relationship as stated in the petition. He also admit that, out of their wedlock the petitioner no.2 and 3 are born to them. The respondent denied the entire allegations of physical and mental harassment and the allegation of dowry demand, in the manner and the circumstances narrated in the petition. According to respondent, he has never given any mental or physical torture but instead ready to take back the petitioners to the matrimonial house. In this regard he has filed petition before the Hon'ble Family Court at Hubballi in MC No. 330/2023 for Restitution of Conjugal

Rights. The said petition got transferred to Sandur by the order of Hon'ble High Court on the application filed by the petitioner.

8) According to respondent, after the birth of second daughter, the petitioner No.1 changed her behavior and started giving harassment to respondent, his father, mother and other family members. She failed to provide food to respondent and his old age parents. The petitioner No.1 left the house of respondent without any reasons. The petitioner No.1 lodged false complaint before Sandur Police Station which is registered in Crime No. 99/2023 for the offences punishable under Section 3 and 4 of Dowry Prohibition Act and under Section 504, 506, 498(A) and 323 of IPC. She filed this false case in order to harass the respondent.

9) It is submitted that the petitioner No.1 is educated and earning salary. She can meet out daily needs. Even thereafter she filed this false petition seeking maintenance. The respondent is street vendor and has meager income. He has obligation to fulfill

the needs of his old aged father towards his medicine and treatment. He has no sufficient income and do not possess any movable and immovable property in his name. In the nutshell he denied all the allegations made against him and his family members, and sought direction of this court against petitioner No.1 to join his company. Amongst other grounds, he prays to dismiss the application.

10) Heard the learned counsel for the petitioners and respondent. Perused the materials on record.

11) The petitioner no.1 has filed the documents in support of her case. On perusal of the same it *prima-facie* indicate that the petitioner is legally wedded wife of respondent. The relationship of petitioner with respondent went unchallenged. It is also not disputed that they have two children – petitioner no.2 and 3.

12) The petitioner no.1 has made grave allegations against respondent no.1. She alleged physical and mental cruelty. It is further alleged that, the respondent and his father sold landed

property for Rs.35,00,000/- by forcibly taking her signature as consenting witness, with an assurance to deposit the amount in the name of petitioner no.2 and 3, but they failed to deposit the amount. When she demanded, the respondent, his father and brother quarreled and assaulted her.

13) On the contrary the respondent has also made allegations against the petitioner by stating that, after the birth of petitioner no.2, she changed her behavior and started giving harassment to him, his father, mother and other family members. He also alleged that she failed to provide food to respondent and his old aged parents. He has denied each and every allegation made against him and his family members. According to him, he and his family members have been falsely implicated by petitioner no.1. All these allegations and counter allegation have to pass through the test of trial.

14) The petitioner no.1 has filed assets and liabilities. The petitioner no.1 has stated that the respondent is doing wholesale business in fruits and getting Rs.30,000/- income per month.

Apart from this he has got landed and house property at Hubli. Though she mentioned the property details of the respondent, but no documents in this regard are filed to show that those properties are exclusively owned and possessed by respondent. At the same time, she stated that the respondent and his father have sold the property. The existence of those property needs to be shown during trial. She failed to disclose whether the properties mentioned in her affidavit generate income, and if yes, how much. She stated that her children are attending school, and school fees has to be borne. The assets and liabilities filed by the respondent disclose that the he has filed petitioner in M.C.No.330/2023 before the Hon'ble Family Court, Hubballi for restitution of conjugal rights. The said case has been transferred to Sandur by the order of Hon'ble High court of Karnataka. The respondent submits that he is street vendor selling fruits and disclosed his income as Rs.15,000/- per month. The photograph produced by the petitioner itself show that the respondent is a street vendor and do not carry out wholesale business. Apart from

this, the respondent has old age father who is 78 years and suffering from ailments. He pointed out that he is selling seasoned fruits on footpath. Naturally, the income cannot be said to be fixed. He has shown his liabilities to the tune of Rs.3,00,000/-.

15) However, when the respondent no.1 is hale and healthy and able to earn livelihood, he is bound to maintain the petitioner no.1 to 3. The petitioner no.1 at this stage *prima-facie* has shown reasons to stay away from the respondent no.1. She even lodged complaint against the respondent alleging offence of cruelty and dowry harassment. Therefore, having regard to the object of Sec.125 of Cr.P.C, one cannot escape from the liability to maintain his wife and children. The presumption is that, the able bodied healthy person is possessed with sufficient means, and it is for him to show that he is not capable of earning anything. In the instant case the respondent no.1 did not show that he is not able bodied. It is bounden duty of respondent no.1. to maintain his wife and children. Therefore, the petitioners are entitled to be

provided with maintenance by respondent no.1 in their favour, though not to the tune as claimed by petitioner no.1.

16) Having regard to the standard of living that the petitioner was said to be accustomed to live in her matrimonial home. This Court of the opinion that the amount of maintenance to the tune of Rs.4,000/- to the petitioners to be awarded. And such award cannot be said to be unbearable for the respondent nor it is meager that it will drive the petitioners to the penury. The petitioner no.1 will be able to maintain herself with reasonable comfort. The position and status of parties, reasonable wants of petitioners are taken into consideration while awarding the above maintenance. The allegations made in the petition are to be substantiated during the trial. Accordingly, for the above said reason I proceed to pass the following;

ORDER

The respondent is hereby directed to pay interim maintenance of Rs.4,000/- to the

petitioners together, as maintenance from the date of this order, till the disposal of the main petition.

(Dictated to Stenographer, typed by him, transcript is taken, the same is corrected, revised, signed and then pronounced by me in the open court on this 24th day of July 2025)

(Md. Shaiz Chouthai)
Civil Judge and J.M.F.C., Sandur.