

KABK220002282025



CRL.R.P./10022/2025

**IN THE COURT OF THE III ADDL.DISTRICT & SESSIONS  
JUDGE, BAGALKOTE, SITTING AT: MUDHOL**

**PRESENT**

**SRI. GURURAJ G. SHIROL,**

**B.Com., LL.M.,**

**III Additional District & Sessions Judge,  
Bagalkote, sitting at Mudhol**

**C.R.P. No.10022/2025**

**Dated this 6<sup>th</sup> day of March-2026**

**REV. PETITIONER:**

1. Shri. Mahalingesh S/o Bharamappa Dodamani,  
Age: 29 years, Occ: K.E.B Lineman,  
R/o: K.E.B Quarters, Hanagall, Dist: Haveri.

**(By Sri. G.S.Patil Advocate)**

**// Vs //**

**RESPONDENT:-**

1. Smt. Laxmi W/o Mahalingeshwar Dodamani  
Age: 25 years, Occ: Household work,
2. Kumar. Krishna S/o Mahalingeshwar Dodamani,  
Age: 1 years, Occ: Nil,  
Represent by Minor Guardian Natural Mother by  
Respondent No.1 R/o: K.E.B Quarters, Hanagall,  
Dist: Haveri,

Now residing at Baragi village, Tq: Mudhol,  
Dist: Bagalkot.

**(By Shri R.M.Patil Advocate)**

**: ORDER :**

This is a revision petition filed by the revision petitioner u/s 438 of BNSS. against the interim maintenance order of Addl. Civil Judge and JMFC, Mudhol in Crl. Misc. No.224/2023 dated 05.11.2024.

**2.** To avoid confusion the parties are referred in the ranks held by them before the trial court. The present revision petitioner was a respondent in the criminal miscellaneous and the present respondent was the petitioners.

**3.** The petitioner had filed petition for maintenance in Crl.Misc.No.224/2023 under Section 125(1) of BNSS. Further for maintaining her family, she filed interim application for allowing the interim maintenance of Rs.15,000/-. Learned Magistrate allowed the same by order dated 05.11.2024 and directed the respondent to pay Rs.4,000/- per each as monthly maintenance, against which order the respondent is in revision.

**4. The grounds of revision are as under :**

i) That the order under revision is not proper one it ought to be set aside.

ii) That the trial court has not properly appreciated the material given by the present respondent.

iii) That present respondent not ready to lead married life with Rev-petitioner and that present respondent spend luxurious life. So that respondent left the house without intimation to rev-petitioner or to his family members.

iv) That the respondent No.1 has not filed affidavit regarding the income of herself and her family in compliance with direction of Hon'ble Supreme Court in Rajanesh Vs Neha reported in AIR 2021 SC 569 and Adithi @ Mithi Vs Jitesh Sharma reported in AIR 2024 SAR (Cri) 34.

v) The respondent is not ready to lead marital life with the revision petitioner. She has left the house without intimating the revision petitioner.

On these, among other grounds, the revision petitioner prays to allow the revision and set aside the impugned order.

5. The counsel for the revision petitioner has filed I.A U/s 5 of the Limitation Act to condone the delay of 200 days in preferring the revision.

6. In response to notice Sri.R.M.P advocate appeared for respondent. But he has not filed objection to I.A No-1.

7. Trial court records are secured.

8. Heard both the sides. Perused the records.

9. In view of the rival contentions of the parties, the points that arise for the consideration of this court are as under:

1. Whether the appellant has made out sufficient grounds to condone the delay ?
2. Whether the revision petitioner has made out any reasonable or substantial grounds to interfere with the order under the revision petition?
3. What order?

10. On the basis of the material on record and the law applicable to the matter, above raised points are answered as under:

Point No.1: In the **Affirmative.**

Point No.2: In the **Affirmative.**

Point No.3: As per final order for the

following:

**REASONS**

**11. Point No.1**:- The revision petitioner has prayed for condoning the delay of 200 days in preferring the revision. In the affidavit annexed to I.A No-1, the revision petitioner contends that, as he was unwell and advised rest by the doctor, he could not prefer the revision in time.

On careful perusal of the records, the respondents have not filed objection to the I.A No-1. There is no counter affidavit by the respondents in this regard. Therefore, what is stated by the revision petitioner in affidavit annexed to I.A No-1 has remained not challenged by the respondents. The reason stated in affidavit annexed to I.A No-1 is a reasonable explanation and it shows sufficient cause for not preferring the revision in time.

**12.** Secondly, if the I.A is allowed the revision will be decided on merits and no prejudice would be caused to the respondents. Whereas, if the I.A is not allowed, then the revision petitioner will lose his right to question the impugned order. Hon'ble Apex court and Hon'ble High Court of Karnataka in various decisions have held that, application for condonation of delay will have to be considered liberally. Hence, this court is of

the considered opinion that the original respondent/revision petitioner has made out grounds for condoning the delay. Hence I.A No-1 deserves to be allowed and the point No-1 is answered in the **Affirmative**.

**13. Point No-2** : - On perusal of the revision it is filed against the order of the trial court granting maintenance of Rs.4,000/- to respondent No-1 & 2 from the date of petition. The revision petitioner is directed to pay maintenance to first respondent till she remarries and to the second respondent till he attains majority. The trial court also directed the revision petitioner to pay the arrears of the maintenance from the date of the order.

**14.** The revision petitioner contends that, the respondent No-1 herself has left the house, he has not neglected her. She did not perform her marital duties. On careful perusal of the contentions raised by the revision petitioner. He has not stated anything regarding correctness of the quantum arrived at by trial court to pay compensation. On perusal of the trial court records the revision petitioner was placed exparte. So, on one hand

there was no material by revision petitioner before the trial court to consider his plea regarding quantum.

**15.** Learned advocate for the revision petitioner further contends that, the trial court has not followed the guidelines in **Rajanesh Vs Neha** reported in **AIR 2021 SUPREME COURT 569** wherein following directions were issued,

" a) The Affidavit of Disclosure of Assets and Liabilities annexed at Enclosures I, II and III of this judgment, as may be applicable, shall be filed by the parties in all maintenance proceedings, including pending proceedings before the concerned Family Court / District Court / Magistrate's Court, as the case may be, throughout the country;

(b) The applicant making the claim for maintenance will be required to file a concise application accompanied with the Affidavit of Disclosure of Assets;

(c) The respondent must submit the reply along with the Affidavit of Disclosure within a maximum period of four weeks. The Courts may not grant more

than two opportunities for submission of the Affidavit of Disclosure of Assets and Liabilities to the respondent.

If the respondent delays in filing the reply with the Affidavit, and seeks more than two adjournments for this purpose, the Court may consider exercising the power to strike off the defence of the respondent, if the conduct is found to be wilful and contumacious in delaying the proceedings.<sup>32</sup> On the failure to file the Affidavit within the prescribed time, the Family Court may proceed to decide the application for maintenance on basis of the Affidavit filed by the applicant and the pleadings on record; *Kaushalya v Mukesh Jain*, Criminal Appeal Nos. 1129-1130 / 2019 decided vide Judgment 24.07.2019.

(d) The above format may be modified by the concerned Court, if the exigencies of a case require the same. It would be left to the judicial discretion of the concerned Court, to issue necessary directions in this regard.

(e) If apart from the information contained in the Affidavits of Disclosure, any further information is required, the concerned Court may pass appropriate orders in respect thereof. "

On careful perusal of the impugned order the respondent No-1 has not produced such affidavit as mandated by Hon'ble Apex court above.

**16.** Further learned advocate for the revision petitioner has produced judgment of Hon'ble Supreme Court in **Adithi @ Mithi Vs Jithesh Sharma** reported in **2023 INSC 981** wherein it is observed and held as under:

"15. As in the case in hand, the impugned order passed by the High Court is cryptic and is bereft of reasons. In our opinion, the same deserves to be set aside and the matter is liable to be remitted to the High Court for consideration afresh. Ordered accordingly. As the respondent remained unrepresented, the High Court may issue notice for his appearance on the date so fixed by it.

16. Considering the facts of the case in hand and the other similar cases coming across before this Court not adhering to the guidelines given in Rajnesh's case (supra), we deem it appropriate to direct the Secretary General of this Court to re-circulate the aforesaid judgment not only to all the Judicial Officers through the High Courts concerned but also to the National Judicial Academy and the State Judicial Academies, to be taken note of during the training programmes as well. Ordered accordingly."

The above excerpt shows that, it is made mandatory to follow the guidelines in **Rajanesh** case referred supra and remitted the matter to High court for compliance. As in the present case the first respondent has not complied the directions, this court has no other go than to remit the matter to the trial court for fresh disposal after providing opportunity to both the sides to file their affidavits in compliance with **Rajanesh Vs Neha** and dispose of the matter afresh in

accordance with law. Hence the order does not sustain and is set aside and the matter is remitted to trial court.

**17.** But however, looking to the fact that, the respondent No-2 is minor and first respondent is young lady having no means of survival the court feels it just and necessary to direct the revision petitioner to pay the quantum fixed by the trial court as interim maintenance till disposal of the trial court afresh and if the trial court alters the quantum of maintenance, the amount already paid can be adjusted from the quantum ordered. Accordingly the point No-2 is answered in the **Affirmative**.

**18. Point No.3**:- In view of the above findings on point No.1 & 2, this court proceeds to pass the following:

**: ORDER :**

The criminal revision petition filed by the revision petitioner U/Section 438 of B.N.S.S is **Allowed**.

The impugned order dated 05.11.2024 passed by Addl. Civil Judge and JMFC, Mudhol in Cril. Misc. No.224/2023 is hereby **set aside**.

The matter is remitted to the trial court with a direction to dispose of the matter afresh after getting compliance of directions of Hon'ble supreme court in **Rajanesh's** case referred supra by the parties and permitting them to lead evidence/further evidence.

Both the parties are directed to appear before the trial court 24.03.2026 without notice. However the revision petitioner shall continue to pay the interim maintenance awarded by the trial court till disposal of the matter by it afresh. The payment shall be adjusted towards the amount of compensation that may be awarded later.

Send copy of this order along with trial court records to the trial court forthwith.

(Dictated to stenographer directly on computer, corrected by me and then pronounced in open court on 6<sup>th</sup> day of March-2026).

**(GURURAJ G. SHIROL)**  
**III Addl. District & Sessions Judge,**  
**Bagalkote, sitting at Mudhol.**