

IN THE COURT OF CIVIL JUDGE & J.M.F.C.,
AT BANAHATTI

: PRESENT:

Miss. Shushma T.C.
B.Com., LL.B.,

Civil Judge & J.M.F.C., Banahatti

Dated this, the 08th day of December, 2021.

Crl. Misc. No.17/2021

1. Ashwini W/o Ravindra Hubballi,
R/o: Sasalatti, Tq: Rabakavi-Banahatti

...Petitioner

(Represented by Sri. K.P.K., Advocate)

- V/s -

1. Ravindra S/o Murigeppa Hubballi,
R/o: Sasalatti, Tq: Rabakavi-Banahatti

...Respondent

(Represented by Sri. M.P.T., Advocate)

: PARTIES IN I.A No. I :

1. Ashwini W/o Ravindra Hubballi

...Applicant/Petitioner

- V/s -

1. Ravindra S/o Murigeppa Hubballi

...Opponent/Respondent

ORDERS ON IA No.I :

This application is filed U/sec.125(2) of Cr.P.C. praying this court to pass an order directing the respondent to pay a sum of Rs.24,000/- to petitioner towards her interim maintenance.

2. In the affidavit annexed to this application, petitioner has stated that, she is the legally wedded wife of respondent and their marriage was solemnized as per Hindu customs and traditions prevailing in their community. After the marriage, she went to respondent's house to lead marital life and for about 10 years they were together. In their wedlock, 2 kids are born to them. Later, the respondent used to doubt the petitioner and hence used to give her physical and mental harassment and she has informed to the elders and at home and their efforts in conciliating the matter between them failed as he did not listen to their words and continued to doubt the petitioner. Around 2 years ago, without any reason, the respondent by suspicion physical assault the petitioner and driven her out of his house and since then she is residing in her parents' house and he did not make any attempts to take her back to his company and has not made any arrangements for the livelihood of her and of their children. It is submitted that,

respondent has filed a divorce petition without any valid reasons. He and his family has around 10-12 acres irrigation land in Sasalatti and Mugalkod and he is earning income of Rs.20 lakhs per year and is also earning additional income of Rs. 10-12 lakh per year from transportation of harvested sugar canes by tractor on rent and from dairy business and is financially capable to pay the petitioner a sum of Rs.30,000/- per month. It is submitted that, she is need of Rs.30,000/- per month for the educational expenses of her children, food, clothing, medical and other expenses. It is submitted that, it is his duty to maintain his wife and children, but he has not paid any amount towards her maintenance and is willfully neglecting her and their children. It is submitted that, respondent is having capacity to pay maintenance. Hence, prayed to allow the petition.

3. The respondent filed his statement of objections to the main petition and filed a memo to treat the contents of the same as objections to this application. He admitted the relationship between him and the petitioner but denied all the petition allegations. He contended that, the petitioner a marital life with him for only 5-6 years and thereafter, started to give physical and mental torture by

demanding luxurious materials and gold ornaments and she did not listen to the elders in the village. Further, it is contended that, she is having illicit relationships with others and when she was asked not to continue such thing, she left to her parental home without informing the respondent and still she is living in adultery and hence, he has filed a petition for divorce which is pending for consideration. Further contended that, he is earning only a sum of Rs.1,00,000/- to 1,50,000/- per year from the income of landed properties and he is looking after his aged father and mother and hence he is not in a position to pay maintenance to the petitioner. Further contended that, their children are residing with him and hence, the question of paying maintenance to their children will not arise as alleged by the petitioner. It is submitted that, the petitioner is doing tailoring work and is earning a sum of Rs.500/- to 1,000/- per day and is capable of maintaining herself. On these grounds prayed to dismiss the application with cost.

4. Heard arguments and perused the materials available on record.

5. The points that would arise for my consideration are:

- 1) Whether the petitioner is entitled for interim maintenance as prayed for?

2) What order?

6. My answers to the above points are as under:

Point No.1 : Partly in affirmative

Point No.2 : As per final order,
for the following,

: R E A S O N S :

7. **Point No.1:** The petitioner has filed this petition U/sec. 125(2) of Cr.P.C. seeking maintenance. There is no dispute between the parties about their relationship that, they are husband and wife. Further, there is no dispute that, they both are residing separately. The petitioner has stated that, respondent has willfully neglected to maintain her and her children thereafter, she is residing in her parental house. To decide about the said fact, full fledged trial is necessary. But at this stage, prima-facie it reveals that, due to the dispute between the parties they are living separately and the petitioner is residing in her parental home.

8. The petitioner has stated that, respondent is earning an income of Rs.20 lakhs from the landed property and an additional income of Rs. 10-12 lakh per year. At this stage, there are no materials to prove the same. It is further submitted by the petitioner that, maintenance amount is required for her livelihood.

The respondent being her husband is under obligation to provide maintenance for her and for their children.

9. The respondent has contended that, petitioner herself has deserted his company without informing him and is living in adultery, fed up by this, he has filed for divorce which is pending for consideration. He is earning approximately an amount of Rs.1,00,000/- to 1,50,000/- per year and is looking after his aged parents and their children are residing with him and he is already maintaining them and looking after their educational and other expenses. Further, she is capable of maintaining herself as she is earning an amount of Rs.500/- to 1,000/- per day. Hence, prayed to reject the application.

10. From the facts of the case, it appears that, petitioner is residing in her parental house. She requires minimum maintenance amount for her day to day expenses. As contended by the respondent, at this stage there is no materials to show that, she is earning an amount of so and is capable of maintaining herself. At this stage, prima facie it appears that, respondent has not made any arrangements towards the maintenance of his wife. The question whether she deserted her husband and whether she is

living in adultery, requires a full trial. Hence, by considering the facts and circumstances of the case and status of the parties, this court is of the opinion that, it is just and proper to grant Rs. 1,500/- per month to the petitioner as interim maintenance from the date of this petition. Accordingly, I proceed to answer this point as partly in affirmative.

11. **Point No.2:** In view of my findings on above point No.1, I proceed to pass the following:

: O R D E R :

I.A No. I filed by the petitioner U/sec.125(2) of Cr.P.C. is hereby partly allowed.

The respondent is directed to pay Rs.3,000/- per month as interim maintenance to the petitioner, from the date of this petition.

(Dictated to the Stenographer, directly on computer, typed by her, corrected by me, signed and then pronounced by me in the open court on this the 08th day of December, 2021.)

Sd/-

(SHUSHMA T.C.)
Civil Judge & JMFC., Banahatti.