

KACM210002452024



**IN THE COURT OF III ADDL. CIVIL JUDGE AND J.M.F.C.
KADUR**

**PRESENT: Shri. Thahakaleel K.A, B.A. LL.B.,
III Addl. Civil Judge & JMFC., Kadur**

DATED: This the 4th day of July 2024

Crl.Misc.No.77/2024

Petitioner : **Smt. C.C.Shruthi**
W/o Prashanth K
D/o T.M. Chandregowda,
Aged about 32 years, housewife,
R/o Ramanahalli Village,
Chikkamagaluru Town,
Chikkamagaluru District,
Present R/at Gandhi nagara,
Hemmedoddi Village,
Birur Hobli, Kadur Taluk.

(Rep. By Sri. N. Shekar., Advocate)

Respondent : **Sri. Prashanth K**
S/o Kumarappa,
Aged about 37 years,
Agriculturist,
R/o Andhehalli Village, Chikkangala
Post, Birur Hobli, Kadur Taluk,
Chikkamagaluru District.

(Rep. By Sri. M.Narashima Murthy., Advocate)

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**ORDER ON I.A No. I**

IA-I is filed by the Learned Counsel for the Petitioner Under Section 125(1) of the Code of Criminal Procedure for issuing direction to the Respondent to pay interim maintenance of Rs.20,000/- per month to the Petitioners till the date of disposal of the petition.

2. The Petitioner has sworn to an affidavit in support of the application, wherein she has stated that, she has filed the present petition for seeking the maintenance from the Respondent. It is stated that, the averments of the petition may be read as part and parcel of the affidavit. It is stated that the marriage of the Petitioner with the Respondent solemnized on 28.09.2018 at Sri Chandramouleshwara Temple, Kadur Town as per the Hindu rights and rituals and the same is registered before the Registrar of Marriage. It is further stated in the Petition that, though the Petitioner has treated the respondent and his family members with love and affections, but they started to give mental and physical torture

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without any reasons and started to abuse in a public place. The respondent by consuming alcohol and assaulted her, the Petitioner has tolerated the act of the respondent by hoping that, the respondent one or other day may rectify his mistake and treat her with love and affection as responsible husband, but the Respondent has not rectified his mistake.

3. The respondent neglected to provide the petitioner with food, cloth and medicine. Petitioner without tolerating the mental and physical torture has left the house of the Respondent and started to reside with her parents, Because of neglecting the Petitioner, it is not possible for the Petitioner to lead their normal life. The Petitioner requires Rs.25,000/- as maintenance per month towards her food, cloth medicine, etc. The Respondent is a agriculturist and having ancestral property and earning Rs.35, 00,000/- per annum. It is stated that, the interim maintenance has to be granted in favour of the Petitioner in order to lead normal life.

4. The learned counsel for the Respondent has filed statement of objections to IA-I. The Respondent in his

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objections he has admitted the relationship of the parties, he has denied the contents of I.A No. I as false, frivolous and vexatious one. It is contended in the objections that, the Petitioner herself left the house of the Respondent and therefore, she is not entitled for claim maintenance. Further, the Respondent working as Tractor driver and he is earning Rs. 400 per day. In that amount the Respondent himself unable to maintain himself and his parents. With these contentions, the Respondent has sought for rejection of IA-I.

5. Heard the learned counsels appearing for the parties and perused the materials on record.

6. The following points arose for the consideration of this Court:

Point No.1: Whether the Petitioners have made out grounds for allowing IA-I and thereby granting interim maintenance as sought for?

Point No.2 : What Order?

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7. The findings of this Court on the above said Points are as under:

Point No.1: Partly in the Affirmative

Point No.2: As per final Order for the following:

R E A S O N S

8. Point No.1: It is not in dispute that the Respondent and Petitioner marriage was solemnized on 28.09.2018 as per the Hindu Rights and Rituals. After considering the materials on record, it is not in dispute that, the Petitioner and the Respondent are residing separately and the Respondent is not looking after the welfare of the Petitioner. The contention of the Respondent is that, the Petitioner herself deserted the Respondent, Hence she is not entitled for maintenance. If the Petitioner really deserted the Respondent, then the Petitioner ought to have file the Petition seeking relief of restitution of conjugal right, but the respondent instead of filling restitution of conjugal rights, he has filed petition for Divorce in MC No.

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50/2021, the same came to be dismissed. This conduct of the Respondent reveals that, though he has got sufficient means neglected to maintain the Petitioner.

9. No doubt, the Petitioner is a M.A Graduate but she has submitted before the Court that she having no avocation. Mere having higher qualification does not mean that she is able to maintain herself. For a normal woman leading a life without any income is highly impossible. Respondent contended that, but he is working as a Tractor driver and getting work only 4 to 5 days in week and earning 400 per day whenever he gets work. In the assets and liability affidavit of the Respondent discloses that, he is having Income of Rs. 12,000/- per month. The Respondent has not produced the certificate issued by the owner of the tractor to show that the Respondent is working as driver of that Tractor. In the absence of the said document, it cannot be believed that, the Respondent is working as a tractor driver.

10. Whatever it may be, it is the moral as well as the legal obligation of the Respondent to look after his wife i.e.,

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Petitioner. Admittedly when the parties are residing separately, then this Court is of the opinion that, the Petitioner has to be awarded some interim maintenance till the disposal of the petition. The Petitioner has sought for Rs.20,000/- per month as interim maintenance from the Respondent. Admittedly the Petitioner not produced any documents to prove the income of the Respondent, and also by considering the position of the Respondent and the Assets and liability Affidavit filed by the both parties, this Court is of the opinion that Rs.2,000/- has to be awarded as interim maintenance per month to the Petitioners from the date of this order till the date of disposal of the main petition. If Rs.2,000/- is ordered as interim maintenance, no loss or hardship will cause to the Respondent and in turn it will maintain the balance between the claim made by the Petitioner and the objection raised by the Respondent. With these observations, this Court has answered Point No.1 Partly in the Affirmative.

11. Point No.2: For the aforesaid discussion on Point No.1, this Court proceeds to pass the following:

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O R D E R

IA-I filed by the Petitioners under Section 125(1) of Code of Criminal Procedure is hereby partly allowed.

The Respondent is hereby directed to pay Rs.2,000/- per month as interim maintenance to the Petitioner from the date of this order till the disposal of this petition.

No order as to cost.

(Dictated to the Stenographer directly on the computer, typed by her, then script corrected, signed and pronounced by me in the open court on this **4rd day of July 2024.**)

(THAHAKALEEL K A)
III Addl. Civil Judge and JMFC
Kadur.

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