

KAHS010043762023



Presented on : 10-08-2023
Registered on : 10-08-2023
Decided on : 10-04-2026
Duration : 2 years 8 months

IN THE COURT OF PRINCIPAL DISTRICT &
SESSIONS JUDGE, HASSAN.

Dated this the 10th day of April 2026

PRESENT

Smt. Hemavathi, B.B.M., LL.B.
Principal District & Sessions Judge,
Hassan.

Crl.A. No.162/2023 CW Crl.A. No.197/2023

In Crl.A.162/2023

Appellant:

Santhoshkumar H.R.,
S/o Ramakrishna,
Aged about 36 years,
Lakshmi Nilaya,
Hunasinakere Layout,
Santhepete School Road,
Hassan.
Presently residing at
E-III.29, Z.I.L. Colony,
Zuari Nagar, Goa, &
Ruvaise Housing Complex,
Abhudabi PB No.11885,
U.A.E.

(Represented by Sri. H.P. Paramesha, Advocates)

Vs.

Respondent:

Veena,
W/o Santhosh Kumar H.R.,
Aged about 32 years,
Opposite Kashi Vishwanatha Temple,
Hunasinakere Road,
Hassan.

(Represented by Sri. C.A. Wilson, Advocate)

In Crl.A. No.197/2023

Appellant:

Veena,
W/o Santhosh Kumar H.R.,
Aged about 32 years,
Opposite Kashi Vishwanatha Temple,
Hunasinakere Road,
Hassan.

(Represented by Sri. C.A. Wilson, Advocate)

Vs.

Appellant:

Santhosh Kumar H.R.,
S/o Ramakrishna,
Aged about 37 years,
Lakshmi Nilaya,
Hunasinakere Layout,
Santhepete School Road,
Hassan.

Also at
Santhosh Kumar H.R.,
S/o Ramakrishna,
Aged about 37 years,
E-III.29, Z.I.L. Colony,
Zuari Nagar,
Goa 403 726

Also at
Santhosh Kumar H.R.,
S/o Ramakrishna,
Aged about 37 years,
Ruvaise Housing Complex,
Abhudahi PB No.11885,
Uunied Arab Emirates (U.A.E.)

(Represented by Sri. H.P. Paramesha, Advocate)

COMMON JUDGMENT

Crl.A. No.162/2023 is preferred by the appellant against the respondent challenging the order dated 05.07.2023 in Crl.Misc. No.157/2014 (old Crl.Misc. No.263/2013) on the file of II Additional Civil Judge & JMFC, Hassan partly allowing the petition filed under Section 12 of Protection of Women from Domestic Violence Act, 2005 prohibiting the appellant from neglecting the respondent and her daughter from paying monthly maintenance and also directing the appellant to pay Rs.10,000/- to the petitioner, Rs.5,000/- to the daughter and also Rs.1,00,000/- as compensation to economic abuse and Rs.25,000/- to the litigation expenses and for such other relief.

2. Crl.A. No.197/2023 preferred by the appellant challenging the very same impugned order praying to modify the said order and for such other relief.

3. Since both the appeal arised out of impugned order dated 05.07.2023, at this stage I have clubbed both cases for common judgment to avoid repetition of facts, evidence in appreciation and conflict of order and also to save precious time of the Court.

4. For the sake of convenience, the parties to this appeal are referred by their original ranks before the trial Court.

5. The petitioner filed the petition under Section 12 of Protection of Women from Domestic Violence Act, 2005 against the respondent stating that her marriage with the respondent was solemnized on 15.08.2010 at Mahaveera Bhavan, Ravindra Nagara, Hassan. At that time of marriage, parents of the respondent demanded dowry of Rs.5,00,000/-

cash, 300 grams gold from her parents and it was agreed to pay Rs.3,00,000/- cash and 200 grams gold at the time of marriage and also agreeing to provide remaining Rs.2,00,000/- cash and 100 grams gold after marriage. Her marriage was celebrated by spending more than Rs.7,00,000/-. After marriage, they lived in Dubai. The respondent started to harass her by demanding dowry and claiming house which was given by her aunt through Will. She tolerated the same without disclosing the same to her parents to lead happy marital life with the respondent. However she managed to reach Hassan with her father from Goa. Due to their wedlock, they have one female child by name Ganashree. Due to adamant and arrogant act of the respondent, she was put to untold harassment, hardship and mental torture. The prestige and peace of the family was spoiled. But the respondent had disobeyed the petitioner without any lawful excuse. So she lodged the complaint before the Pension Mohalla Police Station on 22.11.2011 against the respondent and his parents for the

offences punishable under Sections 498A, 504, 506 read with Section 34 of Indian Penal Code and Sections 3 and 4 of Dowry Prohibition Act, 1961. The charge sheet has also been submitted. Now it is pending before II Additional Civil Judge & JMFC, Hassan in CC No.644/2012. Hence, she filed the petition seeking to register the case against the respondent for committing the offence of Domestic Violence Act against her and issue notice to the respondent and hold an enquiry and other presentation articles given to her at the time of marriage which were removed by the respondent and his mother from her custody and also to direct the respondent to pay compensation and damages of Rs.20,00,000/- for causing the act of domestic violence and such other relief.

6. The respondent appeared through the advocate and filed the objection statement denying the petition averments and contended that his marriage with the petitioner had taken place against her wish and willingness by her parents. He himself had given 50 gms. gold chain, earstud, one tola chain,

8 gms. gold finger ring to the petitioner and he never demanded dowry either in cash or gold from the parents of the petitioner and after marriage he took her to Abudabi where he was working. He looked after her well. There was no dispute arose between them. Thereafter, she requested him to sent to her parental house. So he took her to Goa. In the meanwhile, she fell ill. For that he provided treatment to her at Goa. On 03.02.2011 she came to the house of her parents. Thereafter, she did not return either to matrimonial house at Goa or Abudhabi and also at Hassan. He requested several times to join him at Abudhabi. But herself and her parents refused to send her with him. Petitioner herself used to harass him both physically and mentally. He never subjected her for any physical and mental torture. She informed him about the birth of female child after 10 months from the date of birth of child. She had also given false complaint against him and his parents. They have been arrested just before 4 days prior to the marriage of his brother and they were put behind the bar. It is

the petitioner herself deserted him having no interest to lead marital life with him. She also threatened him and harassed him and his parents demanding to pay Rs.25,00,000/- to join him and to lead marital life. If fails to pay the amount, she would lodge false complaint against them. He also contended that if really there was harassment by the respondent on the petitioner as stated, she would have file the petition for restitution of conjugal rights before the Family Court, Hassan. Further she owned the house at Hassan. Hence, she is not entitled for any order as prayed for and prayed to dismiss the petition.

7. The trial Court has allowed the petition in part against the respondent – husband and is directed to pay Rs.10,000/- per month to the petitioner, Rs.5,000/- per month to the daughter of petitioner, Rs.1,00,000/- compensation for subjecting her to economic abuse and Rs.25,000/- towards litigation expenses to the petitioner.

8. Being aggrieved by the said order, this Crl.A. No.162/2023 has been preferred by the respondent/ husband on the following grounds:

- a) The impugned order of the trial Court is not maintainable either in law or on facts.
- b) The trial Court without considering the real facts has passed the impugned order which is liable to be set aside.
- c) The trial Court did not take into consideration the income of the respondent and also the interest of dependents on his income.
- d) The trial Court failed to take note that the petitioner is residing with their parents and her father is having sufficient income. She is also working at Bengaluru. She has sufficient means to look after herself.
- e) The trial Court has failed to appreciate that the petitioner has failed to prove that there is domestic violence from the respondent to her.

Hence, prayed to allow the appeal and to set aside the impugned order.

9. Being aggrieved by the said order, this Crl.A. No.197/2023 has been preferred by the petitioner/ wife on the following grounds:

- a) The impugned order dated 05.07.2023 passed by the trial Court is liable to be modify.
- b) The trial Court has erred in passing impugned order without appreciating the materials on record and also without considering the ground realities such as current cost of living including food, clothes, shelter, education, medical facilities and other amenities of life, which are essential for her and her minor daughter.
- c) The trial Court without appreciating the fact that the respondent is working as Chemical Engineer in Abudhabi United Arab Emirates and earning monthly salary of Rs.6,00,000/- and having movable and immovable properties worth more than 20 crores at Goa State and Hassan City and awarded meager amount as maintenance.

- d) The trial Court has failed to consider the materials on record which reflects that domestic violence had caused by her.
- e) The trial Court has failed to consider that the appellant is not in a position to maintain herself and the respondent is on the obligation and duty bound to maintain her and her daughter.
- f) The trial Court has failed to consider that the respondent has caused domestic violence by disputing the relationship of child and approached the Family Court to refer the matter for DNA in MC No.118/2013 CW MC No.44/2014.
- g) The trial Court has failed to consider that in Crl.R.P. No.412/2014 before the Hon'ble High Court of Karnataka, there was a direction to the respondent to produce salary certificate instead of producing the same, he failed to appear before the Hon'ble High Court. Therefore the Hon'ble High Court directed him to pay arrears of maintenance within a month directly to the bank account

of this petitioner. But he has failed to comply the same.

Hence, prayed to allow the appeal and modify the order as sought in the petition before the trial Court.

10. Heard the learned counsels for both the parties.

11. The points that arise for my consideration are:

- 1) *Whether the appellant in Crl.A. No.162/2023 has made out sufficient ground to interfere with the impugned order of the learned Magistrate and thereby to set aside the same as sought for?*
- 2) *Whether the appellant in Crl.A. No.197/2023 has made out sufficient ground to interfere with the impugned order of the learned Magistrate and thereby to set aside the same as sought for?*
- 3) *What order?*

12. My findings on the above points are as hereunder:

Point No.1: Affirmative,

Point No.2: Negative,

Point No.3: As per final order

For the following:

REASONS

13. **POINTS No.1 & 2:** Both the points are taken up for consideration together to avoid repetition of discussion on the facts of the case and also regarding the principles of law.

14. It is the first and foremost argument of counsel for respondent/ husband that the petition is not in accordance with the provisions of DV Act and the petition is to be filed as provided under Form No.2 to 4 of DV Act and Section 12 of DV Act provides for procedure to file the petition before the Magistrate Court.

15. Section 12 of DV Act provides for procedure to obtain orders of reliefs. It says that an aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act. Section 12(3) of DV Act says that every application under Sub-Section (1) shall be in such form and contain such particulars as may be

prescribed or as nearly as possible thereto. Rule 6 of Protection of Women from Domestic Violence Rules 2006 says that every application of the aggrieved person under section 12 shall be in Form-II or as nearly as possible thereto. Form-II disclose that every application under the Protection of Women from Domestic Violence Rules 2006 is to be filed along with the copy of incident report. The complaint filed before the Magistrate Court, it does not disclose that the copy of domestic incident report is accompanied with the said application. So it is clear that the application is not filed in the Form-II as provided under Protection of Women from Domestic Violence Rules 2006.

16. The learned counsel for the respondent/ husband has relied upon the decision reported in **2014 (1) DMC 784** (*Ravi Dutta and others Vs. Kiran Dutta and others*) wherein the Hon'ble High Court of Karnataka held that,

6. After having heard both the sides and on perusal of the impugned order, trial court order and the decisions cited, I find that Section 12 of D.V. Act mandates that

before passing any order on such an application, a 'Domestic Incident Report' has to be taken into consideration and in the instant case, when the impugned order was passed by trial court, Domestic Incident Report was still awaited. No doubt, Section 28 of the DV Act does permit the Court dealing with cases under DV Act to lay down its own procedure for deciding applications under Section 12 or sub-Section 2 of Section 23 of DV Act but the procedure so evolved has to be fair and reasonable. In any case, the Court trying cases under DV Act cannot bypass a mandate of Section 12 of DV Act which requires consideration of Domestic Incident Report prior to passing any order under Section 12 of DV Act.

17. Here the trial Court has passed the order without there being a domestic incidental report and the procedure laid down under Protection of Women from Domestic Violence Act to decide the application filed under Section 12 or Section 23(2) of the Act, which cannot be bypassed. Hence, the petition is not sustainable.

18. The learned counsel has also relied upon the decision reported in *2013(4) Crimes 458 (M.P.) (Dr. Mahesh Mathur and others Vs. State of M.P. and another)* wherein it is held that

“issuing notice without domestic incident report is liable to be set aside”.

19. It is the argument of the petitioner’s counsel that it is not required to get domestic enquiry report. So the judgment relied upon by the appellant is not applicable. When the act itself provides the procedure to be adopted to file the petition under DV Act, the petitioner cannot bypass the same and even the trial Court cannot bypass the same passing an order. Therefore, relying upon the decision of the learned counsel for the respondent, I held that the petition itself not sustainable for not following the procedure laid down in Protection of Women from Domestic Violence Rules, 2006.

20. Further it is the argument of the learned counsel for the respondent that the trial Court though observed that there is no domestic violence by the respondent to the petitioner, had concluded that there is economic abuse. But the petitioner has failed to prove that there is economic abuse by the respondent

and she has also failed to prove that there was physical and mental harassment, which caused domestic violence on her. So impugned order is liable to be set aside.

21. Per contra the counsel for the petitioner contended that the respondent has neglected to take care of wife and daughter. Even he disputed the paternity of the child and he had gone to the extent of DNA test to prove the paternity of the child in the matrimonial proceedings pending before the Family Court and in DNA test, it was proved that the respondent is a biological father of the child. Thereby the respondent had put the petitioner in mental agony. Section 3 of Protection of Women from Domestic Violence Act relates to the definition of domestic violence, the mental agony is also one of the domestic violence. So the trial Court has erred in holding that there is no domestic violence.

22. In the petition filed before the trial Court, it is stated that at the time of marriage the respondent had demanded

Rs.5,00,000/- cash and 300 gms. gold. At the time of marriage, her parents had agreed to give Rs.3,00,000/- cash and 200 gms. gold and also to give remaining cash and gold after the marriage. She has not stated whether it was given as stated by her. In her chief examination also she has not stated the said fact. But she cannot say how her father had accumulated the said amount of Rs.3,00,000/- and she had not produced any receipts for having purchased 200 gms. gold ornaments or any photo or video disclosing giving 200 gms. gold to the respondent. Further she has not examined any independent witness to corroborate her case. She has not produced any evidence except her oral evidence to show that there was demand of dowry by the respondent and her parents had given dowry as per the demand of the respondent. So she has failed to prove that there was demand of dowry by the respondent and it was paid by her parents.

23. Further it is stated in the petition that after marriage while living with him at Dubai, he harassed her for demanding

dowry and claiming house which was given to her under Will by her Aunt. In the course of cross examination she stated that the respondent used to assault her, abused her demanding dowry while she was staying with him at Dubai. She further deposed that after the marriage, she was taken to Goa and as she did not have passport to go with the respondent to Abudhabi. She waited for 2½ months and after passport, she had been to Goa and joined her husband. She has not stated how many days, she stayed with the respondent at Abudhabi and when she returned back, she simply said that she managed to reach Hassan with her father from Goa. In the course of cross examination R.W.1 admitted that he took back the petitioner to India on 29.01.2011. So it is very clear that the respondent himself took the petitioner to India. He denied that while she was staying with him, he harassed her for demanding additional dowry and to transfer the house which was in her name. In the petition it is stated that she lodged the complaint before Pension Mohalla Police Station for the

offences punishable under Sections 498A, 504, 506 read with Section 34 of Indian Penal Code on 22.11.2011. It is not stated why she kept quiet for about 10 months to lodge the complaint when she returned to India. Further she admitted in her cross examination that she filed the petition for restitution of conjugal rights before Family Court though she has not stated the said fact in her petition.

24. Section 3 of DV Act defines about the domestic violence which reads thus:

3. Definition of domestic violence. - For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it -

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.—For the purposes of this section,— (i) “physical abuse” means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;

(ii) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) “verbal and emotional abuse” includes—

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested;

(iv) “economic abuse” includes—

(a) deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, house hold necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and maintenance;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

(c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

25. The petitioner has to prove that conduct of the respondent comes within the purview of Section 3(a) to (d) of DV Act. In the application before the trial Court no where stated that she was subjected to physical injuries or there was sexual and verbal abuse. Further though she stated that there was demand for additional dowry when she was staying with the respondent at Dubai, as discussed above in the chief examination she stated that the respondent was assaulting her when she was staying with the respondent at Dubai. There is no cross examination that demanding dowry he assaulted her. She has lodged the complaint as discussed above after 11 months of her arrival to India. As discussed above, she has not examined any witnesses to show that there was demand of dowry by the respondent and her parents had given the same. If really there was harassment by the respondent she would

have immediately lodged the complaint after her arrival to Goa in the month of June 2011. If all these are taken into consideration it shows that she has failed to prove that there was domestic violence on her when she was stayed with the respondent at Abudhabi.

26. As per Section 2 (f) of DV Act, the domestic relationship means a relationship between two persons who live or lived together in a shared household at any point of time. Here as discussed above, though it is an admitted fact that they stayed together at Abudhabi, she failed to prove that the respondent had caused domestic violence on her. As stated above in the petition she has not stated when she was brought to India. But in the course of cross examination of R.W.1 by putting suggestion she admitted that on 29.01.2011 he brought her to India and she also stated that she stayed with him. In the course of cross examination she admitted that on 03.02.2011 she came to Hassan. So her stay at Goa in the matrimonial house is only from 29.01.2011 to 03.02.2011. She has not

stated that during that period she was harassed by the parents of respondent.

27. It is the argument of the learned counsel for the respondent that respondent had disputed the paternity of the child. This is also the domestic violence. It is not stated when she filed the petition for restitution of conjugal rights and even in her application, she has not stated that the respondent had questioned the paternity of child. So it proves that as on the date of petition the respondent had not denied his relationship with the child. If she filed the petition for restitution of conjugal rights after birth of the child, then the respondent disputed his relationship with the child as father, it cannot be said that there was a domestic violence as on the date of the petition filed before trial Court. Therefore, I hold that the petitioner has failed to prove that there is domestic violence by the respondent on her.

28. The Protection of Women from Domestic Violence Act, 2005 came into force to provide protection of right of the women who are victims of violence of any kind occurring within the family. So the petitioner should prove that she is an aggrieved person as defined under Section 2(a) of DV Act and there is a domestic violence on her. As per Section 4 of the DV Act, any person who has reason to believe that an act of domestic violence has been or is being or is likely to be committed, may give information about it to the Protection Officer. Herein either the petitioner or any other person on her behalf had not given information to the Protection Officer, paramount to file the petition under this Act is that aggrieved person is residing in a shared household with the allegation of domestic violence is made and there should be a domestic violence on her. If there is no domestic violence, aggrieved person is not entitled to file the petition under the provisions of this Act.

29. Now the question is, if the petitioner fails to prove that there is domestic violence on her by the respondent whether she is entitled to any monetary benefit. Section 20 of the DV Act relates to the monetary relief which reads thus:

20. Monetary reliefs.—(1) *While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,—*

(a) the loss of earnings;

(b) the medical expenses;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in charge of the police station

within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

30. On reading of this Section, it is very clear that while disposing of an application under Section 12(1) of DV Act the Court may direct the respondent to pay monetary relief to meet the expenses incurred and loss suffered by the aggrieved person or any child of aggrieved person as a result of the domestic violence. So to grant monetary relief to the aggrieved person under DV Act, the said aggrieved person shall prove that there is domestic violence and because of that she has suffered losses and expenses incurred. Here as discussed above the trial Court observed that the petitioner has failed to prove that there is domestic violence. In spite of that awarded the

monetary relief by way of maintenance and the compensation towards litigation expenses holding that there is economic abuse by the respondent on the petitioner. The learned counsel for the respondent/ husband relied upon the decision of Hon'ble High Court of Judicature at Bombay in ***Criminal Writ Petition No.32/2014*** dated 05.05.2014 between *Koushik Vs. Sau. Sangeetha Koushik Gharami and others* wherein it is held that when the wife being fails to establish that she was subjected to domestic violence, she is not entitled for any monetary relief.

31. I have gone through the order of trial Court wherein the trial Court relied upon the judgment of Hon'ble High Court of Karnataka reported in ***2018(1) KCCR 135*** between *Kasturi Vs. Subhas* wherein it is held that,

“16. "Domestic violence" under Section 3 of the Act among others takes into its fold 'economic abuse' also. The omission of the husband in neglecting to maintain the aggrieved person, who is at the receiving end, falls within the description of Section 3 of the Act. The obligation of the husband continues throughout the matrimonial life and the husband cannot get away with an excuse that for many years no request was made by the wife for the maintenance amount. The very fact that he has led life with another

woman during the subsistence of his marriage with his wife and begot children from the second wife amounts to emotional abuse as contemplated by Section 3(a) of the Act”.

32. As per the said decision the husband was directed to pay maintenance since he was leading life with another woman during subsistence of his marriage and it amounts to emotional abuse. It appears that the trial Court without going through the said citation properly had come to conclusion that the husband neglected the wife and failed to provide basic amenities to his wife. It amounts to economic abuse as defined under Section 3 of DV Act.

33. Here the petitioner has not stated in the petition filed under Section 12 of DV Act before the trial Court that the respondent/ husband had neglected and refused to maintain her and her daughter. There is an allegation that she was subjected to harassment while she was staying at Abudhabi by her husband demanding for dowry and claiming house. Even in the cross examination of R.W.2 nothing is elicited to say that

he had neglected and refused to maintain her. There is no averment in the petition that she has demanded the respondent to pay maintenance for herself and minor daughter. So the question of respondent neglecting and refusing to maintain her does not arise. Since she has claimed monetary relief in the petition, the respondent/ husband had taken the contention that she is highly qualified women than him. She is working at Bengaluru earning gainfully. To prove the same, the respondent produced Exs.R.2 and R.3 which are the investigation reports given by R.W.1. He deposed in his chief examination that he is working as private investigator in Ghosh Investigation Securities Services Private Limited and its office is at Calcutta, having branches at Rajaj nagara. The respondent requested the main branch to investigate, as to the petitioner is working at Volantins Technologies Private Limited, JP Nagar, 4th Floor, 6th Phase, Bengaluru as Human Resource and furnish the report. Accordingly, he was deputed to do the investigation and submitted the report. It is pertinent

to note that this Court has not passed any order to appoint any Private Investigator to investigate as to whether the petitioner is working or not. He produced the report in sealed cover before the Court stating that the petitioner is working in Volantins Technologies Private Limited, drawing salary of Rs.3,84,000/- per year. He also produced 3 CD and one Pendrive to show that she is working there. In the course of cross examination he admitted that he gave application to Volantins Technologies Private Limited through Email for employment. For that he received a reply. He admitted that it is Email of female and he was called for interview. He attended the interview. He further admitted that mkmahikhan22@gmail.com is the Email of woman and the said Mahikhan was called for interview. He admitted that since he is not a Mahikhan, the question of attending the interview does not arise. This creates a doubt that he has conducted fair investigation and submitted the report. Further he has not produced any document to show that petitioner is getting

salary from the aforesaid company of Rs.3,84,000/-. So the report submitted by him cannot be accepted and it has no evidentiary value in the eye of law.

34. Here the petitioner in her cross examination admitted that she is more qualified than the respondent and when it was suggested to her, because of that she would get more salary, she stated that she is not working. She denied that she is working in Volantins Technologies Private Limited drawing salary of Rs.15,000 per month. But she admitted that since two years she is staying at Bengaluru. She nowhere stated in the petition that how she is eking her livelihood. When she has not whispered anything about the source of her maintenance and she admits that she is residing at Bengaluru, it can be presumed that she is working. Further she admitted that her father name is Thammannagowda. In the employment place, she had given her name as Veena Thammannagowda not Veena Santhosh Kumar. Further she deposed which reads thus:

“ಕಾರ್ತಿಕ್ ಚಂದ್ರಶೇಖರ ಅವರ ಬಳಿ ನಾನು ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದೇನೆ ಅಂದರೆ ಸಾಕ್ಷಿಯು ನಾನು ಟೆಸ್ಟಿಂಗ್ ಕೋರ್ಸ್ ಇಂಟರ್ನಿಷ್ಪ್ ಮಾಡುತ್ತಿದ್ದೇನೆಂದು ನುಡಿಯುತ್ತಾರೆ. ಸದರಿ ಕಂಪೆನಿಯ ಹೆಸರು ಟೆಸ್ಟ್ ಯಂತ್ರ ಅಂದರೆ ಸರಿ. ಸದರಿ ಕಂಪೆನಿಯು ಬಸವನಗುಡಿಯಲ್ಲಿದೆ. ಸಾಕ್ಷಿಯು ಗಿರೀಶ್ ಜಿ. ಫೌಂಡರ್ ಮತ್ತು ಸಿ.ಇ.ಓ. ಟೆಸ್ಟ್ ಯಂತ್ರ ಸಾಫ್ಟ್‌ವೇರ್ ಸಲ್ಯೂಶನ್ಸ್ ಅವರ ಕಂಪೆನಿಯಲ್ಲಿ ಸದರಿಯವರ ಕೆಳಗೆ ಕೋರ್ಸ್ ಮಾಡುತ್ತಿದ್ದೇನೆ ಅಂದರೆ ಸರಿ. ಸದರಿ ಪ್ರತಿಯನ್ನು ತಕರಾರಿನ ಮೇರೆಗೆ ನಿಶಾನೆ ಆರ್.1 ಎಂದು ಗುರುತಿಸಲಾಯಿತು.

ವಾಲನ್ಡಿಯನ್ ವಿ.ಟಿ.ಪಿ.ಎಲ್. ಕಂಪೆನಿಯಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದೇನೆ ಅಂದರೆ ಸಾಕ್ಷಿಯು ಇಂಟರ್ ಶಿಪ್ ಮಾಡುತ್ತಿದ್ದೇನೆಂದು ನುಡಿಯುತ್ತಾರೆ. ಸದರಿ ಕಂಪೆನಿಯ ಸಮಾರಂಭದಲ್ಲಿ ತೆಗೆದ ಭಾವಚಿತ್ರಗಳನ್ನು ಸಾಕ್ಷಿ ಒಪ್ಪಿರುವುದರಿಂದ ಸದರಿ 3 ಭಾವಚಿತ್ರಗಳನ್ನು ಒಟ್ಟಾಗಿ ನಿಶಾನೆ ಆರ್.2 ಎಂದು ಗುರುತಿಸಲಾಯಿತು. ಒಂದು ಸಿಡಿಯನ್ನು ಹಾಜರುಪಡಿಸುತ್ತಿದ್ದು ಅದನ್ನು ನಿಶಾನೆ ಆರ್.3 ಎಂದು ಗುರುತಿಸಲಾಯಿತು. ಅರ್ಜಿದಾರರ ಪರ ವಕೀಲರಿಗೆ ಭಾವಚಿತ್ರಗಳ ಮತ್ತು ಸಿಡಿಯ ಪ್ರತಿಯನ್ನು ನೀಡಲಾಯಿತು. ಭಾವಚಿತ್ರಗಳಲ್ಲಿ ನನ್ನ ಜೊತೆ ಇರುವವರು ಕೋ ವರ್ಕರ್ಸ್ ಮತ್ತು ಇಂಟರ್ನಿಷ್ಪ್ ಮಾಡುತ್ತಿರುವವರು ಇದ್ದಾರೆ”.

35. As discussed above she has not stated in the petition how she is maintaining herself. On going through this evidence, it corroborates the evidence of respondent that she is working and earning for her livelihood. When she is a BE graduate and according to her she has undergone internship under software company, it is hard to believe that she is not working. Further it is held by Hon'ble Apex Court in catena of decisions that the petitioner/ wife being highly qualified

cannot sit idle when she is capable of working and earning. Here the petitioner/ wife being an Engineer is capable of working and earning. The trial Court has granted supportive maintenance holding that she being an Engineer graduate capable of working and earning. So she is entitled to supportive maintenance. It is pertinent to note that it is not her case that in spite of she is earning, it is not sufficient for herself and her child. When such being the fact, the granting of supportive maintenance does not arise. Therefore, I hold that the petitioner has failed to prove that she is not working and has no income for her maintenance. Further when she has failed to prove that there is domestic violence, she is not entitled to claim any monetary benefit under Section 20 of DV Act.

36. Ofcourse, the respondent being father of child is bound to maintain the minor child. The question of mother earning or not does not arise. Because both the parents are jointly liable to maintain minor child of both are gainfully

earning. But in this petition first of all the petitioner has not sought for maintenance to her child. As rightly argued by the learned counsel for the petitioner/ wife as per Section 20 of DV Act, the Court has ample power to grant maintenance to minor child. But in view of the decision relied upon by the counsel for the petitioner rendered in Criminal Writ Petition No.32/2014 of the Hon'ble High Court of Judicature at Bombay, if the wife fails to prove the domestic violence, minor child is also not entitled to maintenance under DV Act, Section 12(5) is applicable. Therefore, I hold that awarding monetary benefit by the trial Court to the petitioner by way of maintenance, compensation for damages and also the maintenance to minor child is not proper. It requires interference of this Court. Hence, the point No.1 is answered in the affirmative and point No.2 is answered in the negative.

37. **POINT No.3:** In view of the above discussion, I proceed to pass the following:

ORDER

The appeal in Crl.A. No.162/2023 is hereby allowed.

The appeal in Crl.A. No.197/2023 is hereby dismissed.

Consequently, the order passed by the II Additional Civil Judge & JMFC, Hassan in Crl.Misc. No.157/2014 (old Crl.Misc. No.263/2013) dated 05.07.2023 filed by the petitioner is hereby set aside.

No order as to costs.

The trial Court records shall be returned to the concerned Court along with copy of this judgment forthwith accordingly.

Original order shall be kept in Crl.A. No.162/2023 and copy thereof in Crl.A. No.197/2023.

*(Dictated to the Stenographer Grade-I, transcribed by her, corrected and then pronounced by me in Open Court on this **the 10th day of April 2026**)*

(Hemavathi)

Principal District & Sessions Judge,
Hassan.