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**IN THE COURT OF THE PRL. SENIOR CIVIL JUDGE AND
JMFC AT HANGAL**

Present: Sri.Mahesh S.Patil, B.Sc., L.L.B.,
Prl.Senior Civil Judge & JMFC.,
Hangal.

Dated this the 01st day of August, 2026.

Crl.Misc.No.87/2022

- Petitioners :
1. Smt.Tanusri, W/o Chandrashekhar
Karidyamannanavar, (Before marriage)
Shobha D/o Gurupadappa Kabanur,
Aged 27 years, Household work,
R/at Devarahosapet village, Hangal Taluk,
Haveri District.
 2. Kushal S/o Chandrashekhar
Karidyamannanavar,
Aged 03 years,

(Since petitioner No.2 is minor represented
by his Guardian/mother
petitioner No.1)

(By: Sri.M.S.H., Advocate)

-Vs-

Respondent : Chandrashekhar S/o Nagappa
Karidyamannanavar,
Age 32 years, Occu; Private Job,
R/at Shivabasava Nagara, Haveri,

(By: Sri.S.B.H., Advocate)

JUDGMENT

The petitioners have filed this claim petition against the respondent under Section 125 Cr.P.C., seeking the maintenance of Rs.10,000/- to the petitioner No.1 and Rs.5000/-to the petitioner No.2 from the date of the petition.

2. The case of the petitioners' is as under;

The marriage of the 1st petitioner and the respondent was performed on 21.06.2018 at Sindagi Shanti Veereshwara Kalyan Mantapa, Shivabasavanagar, Haveri in accordance with Hindu rituals and customs in presence of the elders. Therefore, the petitioner no.1 is the legally wedded wife of the respondent. At the time of the marriage, cash of Rs.2,00,000/- is paid to the respondent. After the marriage, the petitioner No.1 went to the house of the respondent to lead the matrimonial life and for about a few days, the respondent led happy marital life with the 1st petitioner, out of which marital wedlock, the petitioner No.2 was born. Thereafter, the respondent, without any reason, used to quarrel with the 1st petitioner and used to assault, without providing food so as to starve the 1st petitioner to the death and one or the other reasons, he used to harass the 1st petitioner. The respondent used to insist the 1st petitioner to bring money from her maternal house for the purpose of his

drinking habits. Thereafter, the petitioner No.1 has lodged the police complaint with Woman Police Station, Haveri and therefore, the concerned police have called the 1st petitioner and the respondent and advised the respondent to take good care of the 1st petitioner. But still, the respondent has thrown the 1st petitioner out of his house. Though the 1st petitioner was pregnant, she went to her maternal house, left with no other option. Thereafter, the 1st petitioner delivered 2nd petitioner and the respondent has not borne the medical expenses nor came to the hospital to see the petitioners. The elders of the petitioner No.1 though advised the respondent several times, the respondent has refused to lead matrimonial life with the 1st petitioner nor agreed to take care of the petitioner No.2 and therefore, the respondent has deserted the petitioners.

3. Though the respondent has harassed the petitioners on one or the other reasons, but the petitioner No.1 sustained all these harassments with positive hope that on one or the other day, the respondent would mend his behavior and quit drinking habits and due to the drinking habits, he used to assault the petitioner. Till date, the respondent has not taken care of the petitioners and not provided the day to day basic necessities like food, medicine, cloth etc., and deserted them. Therefore, the petitioner No1 along with the petitioner

No.2 was constrained to go to her maternal house, left with no other option. The respondent has not spent any money towards the petitioners for their maintenance food, medicine, cloth, nor helped them, nor provided any basic necessities. The father of the petitioner No.1 had died, and her mother is poor and therefore, it is difficult for the petitioner No. 1 to maintain herself and the petitioner No.2. The respondent has not discharged his duty of maintaining the petitioners.

4. The respondent is a private employee with monthly income of Rs. 25,000/- and also has agricultural land, trucks, and RCC buildings, due to which he earns monthly income of Rs.1,00,000/- and therefore, the respondent has enough means to maintain the petitioners.

5. The petitioner NO.1 recently suffering considerable mental harassment, since the petitioner No.2 is also a child who is unable to earn and for the education of the petitioner No.2, the petitioner No.1 is experiencing more expenses and now it is hard for the petitioner No.1 to maintain herself and the petitioner No.2 in today's costly world. Therefore, the petitioner No.1 requires an amount of Rs.10,000/- and the petitioner No.2 requires an amount of Rs.5,000/- towards their maintenance and on such other grounds, prays to allow the petition.

6. The respondent has submitted detailed objections to the main petition, wherein he has admitted the relationship between the parties to the main petition. But however, denies the entire allegations of cruelty alleged by the petitioners in the main petition.

7. This respondent in the objections further contended as under;

The petitioner led marital life with the respondent for a period of 3 to 4 months only, and thereafter, she had been to her maternal home and never returned. At the time of going to her maternal house, she was pregnant and thereafter, she has delivered the petitioner No. 2. After the petitioner No.1 went to her maternal house, she insisted the respondent to maintain a separate house at Hangal and she would work as teacher. But however, the respondent insisted the petitioner No.1 to stay at Haveri, so that the respondent can lead his life with his other family members by working in Haveri. But however, the petitioner No.1 has been harassing the respondent so as to lead luxurious life.

8. Though the respondent advised the petitioner No.1 to lead the life in the present scenario, but she did not listen

the respondent and continued her intention of leading luxurious life and continued harassing the respondent. Though the mother of the respondent advised the petitioner No.1 to lead happy marital life, but she did not listen and went to her maternal house and never returned and staying in her maternal house without any proper reason.

9. The respondent had been to the maternal house of the petitioner No.1 for about 2 to 3 times and invited her to come to the matrimonial house and to lead the matrimonial life, but however, she did not respond and insulted the respondent. However, the respondent has sustained all the insults given by the petitioner No.1 hoping to lead happy matrimonial life with the petitioner No.1. When the petitioner No.1 was in the house of the respondent, she had been insulting the respondent without any reason and not providing the food. However, the respondent sustained all these ill-treatments with the positive hope that on one or the other day, the petitioner No.1 would mend her behavior.

10. When the elders of Hotanahalli, Devarahosapete and Haveri had been to the maternal house of the petitioner No.1 for about 2 to 3 times and advised the 1st petitioner to lead matrimonial life with the respondent, she did not respond and the mother of the petitioner No.1 has also encouraged

the petitioner No. 1. The petitioner No.1 is intending to lead luxurious life and therefore not joined the respondent, though the respondent invited the petitioner No.1 along with his family elders and has been harassing the respondent physically, mentally and financially. Therefore, the respondent felt that the petitioner no.1 is no more interested to lead matrimonial life with the respondent, but however, he is ready to forget all the ill acts on the part of the petitioner no.1 and to lead the matrimonial life with the petitioner No. 1. If the petitioner No.1 is ready to mend her behavior and to lead the matrimonial life with the respondent, the respondent is happily ready to lead the matrimonial life with the petitioner No.1. The respondent was ready to lead the matrimonial life with the petitioner No. 1, but however, the petitioner no.1 was not ready to lead the matrimonial life with the respondent, Hence, the respondent was constrained to file MC.No. 178/2020 before the Family Court, Haveri seeking restitution of conjugal right against the petitioner no.1 and the notice of the said petition was received by the petitioner no 1, but purposely she did not appear and on 21.01.2021, the said petition came to be decreed in favor of the respondent and directed the petitioner No.1 to come and join the respondent within one month from the date of the order. But still, the petitioner no 1 has not joined and led the matrimonial life with the respondent and therefore, it is clear

that the petitioner no.1 is not ready to lead matrimonial life with the respondent.

11. Even after the expiry of one year from the date of the judgment in MC. No.178/2020 the petitioner No.1 did not comply the said order, and therefore, the respondent on 15.07.2022 addressed the lawyer notice to the petitioner No.1, to which the petitioner noi.1 has not replied. Therefore, from all these things, it clearly goes to show that the petitioner No.1 has deserted the respondent. Though the respondent is ready and willing to lead matrimonial life with the petitioner No.1, but the petitioner No.1 is not ready to lead matrimonial life with the respondent and has deserted the respondent and therefore, the petitioner no.1 has to be blamed for her own mistake and therefore, the respondent is not liable to pay the maintenance as sought for in the main petition.

12. The petitioner No.1 is working as teacher in private school of certain village of Hangal Taluk and earning Rs.18,000/- to 20,000/- per month. Whereas the respondent is working in a small company and earning Rs.8,000/- per month. The petitioner no.1 is having means to earn and maintain herself and the petitioner No.2. Though the court

has directed the petitioner no.1 to come and join the respondent, she has not complied, and therefore, the respondent has filed the petition seeking divorce against the petitioner No.1 and only to harass the respondent, she has filed this false petition and hence on such other grounds sought to dismiss the petition with cost.

13. In order to prove the case the 1st petitioner stepped into the witness box and examined herself as PW1. She got marked totally nine documents as per Ex.P1 and Ex.P9. On the other-hand the respondent got examined himself as RW1 and he got marked six document as per Ex.R1 to R6.

14. Thereafter, heard arguments addressed by learned counsels for the petitioners and the respondent and perused the case papers. After hearing the arguments and on perusal of the case papers the points that arise for consideration are as hereunder:

POINTS

1. Whether the petitioners prove that, the respondent has willfully neglected to maintain them?
2. Whether the petitioners further prove that, the respondent has got sufficient means to maintain them?

3. Whether the petitioners further prove that, they are unable to maintain themselves?
4. Whether the petitioners are entitled for maintenance as prayed for?
5. What order?
8. The findings on the above points are as hereunder:
Point No.1 to 4: In the Negative.
Point No.5: As per the final order
the following:

REASONS

15. **Point No.1 to 4:** Since these points are inter-linked with each other and needs common discussion on the same set of facts and in order to avoid repetition of fact, these points are taken up together for common discussion.

16. As could be seen from the records, the petitioners specific case is that the marriage of the petitioner No.1 and the respondent performed on 21.06.2018 at Sri.Shindagi Shanta Veereshwara Kalyana Mantapa, Shivabasavanagar, Haveri as per the Hindu rituals and ceremony in presence of the elders, at which point of time, the cash of Rs.2,00,000/- was given to the respondent as dowry and for about a few days only, the petitioner no. 1 led happy marital life with the respondent at the matrimonial house at Haveri and thereafter, the respondent, without any reason has started quarreling with the petitioner No.1 and also assaulted

without giving food and given harassment by starvation and also on one or the other grounds and also demanded money from the maternal house of the petitioner No.1 to meet out his drinking habits and though the respondent knew that the petitioner no1 was pregnant, he has thrown her out of the house and she has given the police complaint before the Haveri Women Police Station and she had went to her maternal house left with no other option. When the petitioner no.1 delivered the petitioner no.2 in the hospital the respondent has not borne the medical expenses nor come to see the petitioners, though the elders of the petitioners advised the respondent several times to lead happy marital life. Therefore, the respondent has deserted the petitioners, but still, the petitioner No. 1 has sustained all the ill-treatment given by the respondent with a positive hope that on one or the other day, the respondent would mend his behavior though he has been assaulting the petitioner due to his drinking habits,.

17. The respondent, even till date of the petition, has not provided the basic amenities like food, medicine, cloth, etc., and deserted them nor helped them. The father of the petitioner no.1 has died and her mother is a poor and therefore, the petitioners are unable to maintain themselves. The respondent is working as a private employee and

earning Rs.25,000/- per month and also earns Rs.1,00,000/- from the landed property, RCC houses, and truck business. Therefore, the respondent has sufficient means to maintain the petitioners. Hence, the petition.

18. As against this, the respondent has admitted the relationship with the petitioners. But however, specifically and categorically denied the entire averments regarding the ill-treatment and desertion of the petitioners, and further contended that the petitioner no.1 had went to her maternal house for the purpose of the delivery since she was pregnant and delivered the petitioner no.2 and thereafter, insisted the respondent to maintain separate house at Hangal and she would work as teacher. But however, the respondent refused saying that he cannot leave his family members at Haveri and the petitioner No.1 harassing the respondent to lead luxurious life by refusing the advice of the respondent that somehow they can lead the life in the Haveri and to leave the thought of living luxurious life and the petitioner no.1 even did not listened to the mother of the respondent and therefore went to her maternal house and did not return. Though the respondent had invited the petitioner no.1 two to three times, but she has insulted the respondent and during the stay of the petitioner no.1 in the house of the respondent, the petitioner no.1 was not performing any

household work nor cooking any food. But however, the respondent sustained all these ill-treatments with the positive hope that on one or the other day, the petitioner No.1 would mend her behavior.

19. Though the elders of Hotanahalli, Devaragudda, and Haveri had convened panchayat two to three times and advised the petitioner No.1. But she has not listened them and stayed in her maternal house and the mother of the petitioner no.1 also encouraging such attitude of the petitioner no.1. The petitioner no.1 is willing to lead luxurious life and has not returned in spite of the invitation through himself and through elders and his well-wishers and therefore, the same goes to show that the petitioner no.1, without any reason, refusing to come and lead the matrimonial life with the respondent, due to which the respondent is suffering physically, mentally and financially. The respondent is ready and willing to lead the matrimonial life with the petitioner No.1. But however, the petitioner no.1 is not ready and willing to lead the matrimonial life with the respondent. Since the petitioner No.1 refused to lead the matrimonial life with the respondent, he was constrained to file MC.No.178/2020 before the Family Court, Haveri under Section 9 of Hindu Marriage Act seeking restitution of the conjugal right, the notice of which was duly served upon the

petitioner no.1, but she did not appear and therefore, after the inquiry the said MC case was disposed of on 21.01.2021 in favor of the respondent directing the petitioner no.1 to come and join the respondent within a month to lead matrimonial life. But however, the petitioner noi.1 has violated this order as well. Since the petitioner no.1 did not come and join the respondent within year, the respondent has issued the lawyer notice on 15.07.2022 to the petitioner no.1, which is not replied and therefore, it goes to show that the petitioner No.1 is working as teacher in a private primary school at village in Hangal and earning Rs.18,000/- to 20,000/- per month, whereas the respondent is working in small private company and earning Rs 8,000/- and maintaining himself whereas the petitioner no.1 has got every means to maintain herself and the petitioner no.2 and hence on such other grounds prays to dismiss the main petition.

20. In order to prove her such case, the petitioner NO.1 examined herself as PW-1, through whom Ex.P1 to P8 came to be marked and whereas to disprove the case of the petitioner and to prove his case, the respondent examined himself as RW-1 and his maternal uncle by name Sri.Nagaraj Parappa Aduti examined himself as RW-2 and Ex.R1 to R6 came to be marked and closed their side.

21. The PW-1 in her examination-in-chief submitted through her affidavit has reiterated the very averments stated in her petition and prayed to decree the petition as prayed for.

22. In order to substantiate her oral evidence, she has produced and relied upon Ex.P1 to P8.

23. The document of Ex.P1 is the marriage invitation card as per which it goes to show that the marriage between the petitioner no.1 and the respondent was performed on the date, time and place stated in the petition and this fact is not disputed by the respondent.

24. The document of Ex.P2 is the birth certificate of the petitioner no.2, which is also not disputed by the respondent.

25. The document of Ex.P3 and P4 are the original Aadhaar cards pertaining to both the petitioners respectively, wherein it goes to show that the petitioner No.1 is the wife and the petitioner No.2 is the son of the respondent, which fact is not denied by the respondent.

26. Whereas the document of Ex.P5 is the RTC extract bearing RS NO.122/1A+1B situated at Nelogal village, Karjagi Hobli, Hangal Taluk, Haveri District standing in the name of one Nagappa S/o Sanningappa Karimyanannavar to the extent of 1 acre 7 guntas, Kalal Baburav Urpababu Hemadrappa to the extent of 1 acre 16 guntas. Said Nagappa is none other than the father of the respondent. Though the respondent has denied the allegations that he has the immovable property. But however, the document of Ex.P5 goes to show that his father had owned the said landed property and in the evidence it has come that the father of respondent is dead. But however, it is not certain whether or not the father of the respondent has died intestate, so as to hold that the respondent also has the share in the suit property. Therefore, the document of Ex.P5 as of now, is of no help to the petitioners to prove that the respondent owns the immovable property as shown in Ex.P5.

27. Whereas the document of Ex.P6 and 7 are the photos containing trucks and two cars which the petitioner claims that the respondent is owner of these vehicles and therefore, the respondent has got sufficient means to maintain the petitioners. But however, in her cross-examination, she has stated that except the photographs, she has not produced any other document to establish the ownership of the

vehicles shown in Ex.P6 and P7. Therefore, these photographs also do not come to the aid of the petitioner.

28. Whereas the same is the situation with the document of Ex.P8, which is also the photograph containing shop which the petitioners allege that it is owned by the respondent. But however, for the very reasons, the document of Ex.P8 also does not come to the aid of the petitioner to prove their further contention that the respondent has got sufficient means to maintain the petitioners. The document of Ex.P8 is the CD in respect of the photographs produced at Ex.P6 to P8. But however, since the very document of Ex.P5 to P7 are not helpful to the petitioner, the same is the situation with the CD containing the photographs as per Ex.P5 to P7. Even otherwise, if the petitioners established that the respondent, without any sufficient cause, has deserted the petitioner, the respondent has statutory duty/ obligation to maintain the petitioners, since he is an able bodied person.

29. As already stated, the burden is upon the petitioners to establish that the respondent has deserted them without any sufficient cause. In this regard, the respondent mainly relies upon the decree of the restitution of conjugal rights produced by him at Ex.R3, as per which it supports the contention taken up by the respondent in his objections,

contending that since the petitioner no.1 refused to join the respondent, he had approached the family court, Haveri by filing MC.178/20 under Section 9 of Hindu Marriage Act, which notice, though served upon the petitioner no. 1 herein, but she did not appear and after due inquiry, the said court was pleased to decree the said petition.

30. On the basis of this decree, he further claims that the petitioner no.1 has not complied the requirement of the decree and therefore, the petitioner no.1 herself is guilty of desertion of the respondent and even after expiry of 1 year, she has not joined, and therefore, the respondent is constrained to issue another notice as per Ex.R6 to the petitioner no.1, stating that he is going to file the divorce petition against the petitioner no.1, since she has continuously violated the requirement of the decree for about 1 year. Therefore, on these documents, the respondent claims that the petitioner No.1 herself is guilty of desertion of the respondent and therefore, the petitioners are not entitled for any maintenance.

31. In this regard, and at this juncture, this court, on suo motu basis, would like to rely upon the citation of the Honorable Supreme Court in the case of *Rina Kumari @ Rina Devi @ Reena v Dinesh Kumar Mahto @ Dinesh Kumar Mahato*

reported in 2025 INSC 55 | 2025 SCO.LR 1(2)[9] wherein it is held as under....

“29. Thus, the preponderance of judicial thought weighs in favour of upholding the wife’s right to maintenance under Section 125 Cr.P.C. and the mere passing of a decree for restitution of conjugal rights at the husband’s behest and non-compliance therewith by the wife would not, by itself, be sufficient to attract the disqualification under Section 125(4) Cr.P.C. It would depend on the facts of the individual case and it would have to be decided, on the strength of the material and evidence available, whether the wife still had valid and sufficient reason to refuse to live with her husband, despite such a decree. There can be no hard and fast rule in this regard and it must invariably depend on the distinctive facts and circumstances obtaining in each particular case. In any event, a decree for restitution of conjugal rights secured by a husband coupled with non-compliance therewith by the wife would not be determinative straightaway either of her

right to maintenance or the applicability of the disqualification under Section 125(4) Cr.P.C.”

32. Therefore, the fact that the husband has obtained the decree for restitution of conjugal right itself per-se is not the ground to deny the maintenance to the petitioners if the petitioners could establish the fact that they have sufficient cause as provided under Section 125(4) of Cr.P.C., to refuse to join the spouse. Therefore, the only narrow scope to be discussed and decided in the present case is whether or not the petitioner no.1 has purposefully refused to join the respondent, in which case the claim of the petitioners for maintenance is not maintainable, otherwise the same would be maintainable.

33. In order to establish that the petitioner No.1 has no such defense as provided under Section 125(4) Cr.P.C., the learned counsel for the respondent has thoroughly cross-examined the PW-1, and he could able to elicit the following material admissions...

ನಾನು ಬಿ ಎ. ಬಿ ಇಡಿ ಓದಿದ್ದೇನೆ. ಈ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಲು
ಮತ್ತು ನನ್ನ ಮುಖ್ಯ ವಿಚಾರಣೆಯ ಪ್ರಮಾಣ ಪತ್ರಕ್ಕೆ ನಾನೇ
ಮಾಹಿತಿ ನೀಡಿದ್ದೇನೆ.....ಮದುವೆಯ
ಖರ್ಚನ್ನು ಎದುರುದಾರರೇ ಭರಿಸಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಮದುವೆ

ಕಾಲಕ್ಕೆ ಎದುರುದಾರರಿಗೆ ನಮ್ಮ ಕಡೆಯಿಂದ ಏನೂ ಕೊಟ್ಟಿಲ್ಲ ಎಂದರೆ ಕೊಟ್ಟಿದ್ದೇವೆ. ಮದುವೆ ಕಾಲಕ್ಕೆ ಎದುರುದಾರರಿಗೆ ರೂ.2,00,000-00 ವರೋಪಚಾರ ಕೊಟ್ಟಿದ್ದೇವೆ. ನನ್ನ ತವರು ಮನೆಯಲ್ಲಿ ಏನೂ ಆಸ್ತಿ ಇಲ್ಲ. ನನ್ನ ತಂದೆ ನಾನು ಚಿಕ್ಕವಳಿದ್ದಾಗಲೇ ತೀರಿಕೊಂಡಿದ್ದಾರೆ. ನಾನು 5 ನೇ ತರಗತಿಯಲ್ಲಿದ್ದಾಗ ನನ್ನ ತಂದೆ ತೀರಿಕೊಂಡಿದ್ದಾರೆ. ಮದುವೆಯಾದ ಮೂರು ದಿನಕ್ಕೆ ಎದುರುದಾರರ ಮನೆಗೆ ಬಾಳುವೆ ಮಾಡಲು ಹೋಗಿದ್ದೆ . ಆ ರೀತಿ ಹೋದ ನಂತರ 15 ದಿನ ಅವರ ಮನೆಯಲ್ಲಿದ್ದೆ. ತವರು ಮನೆಗೆ ಬಂದು 10 ದಿನ ಉಳಿದು ಪುನಃ ವಾಪಸ್ಸು ಎದುರುದಾರರ ಮನೆಗೆ ಹೋದೆ. ಆ ನಂತರ ನಾನು 5 ತಿಂಗಳು ಎದುರುದಾರರ ಮನೆಯಲ್ಲಿದ್ದೆ.....ನಾನು ಎದುರುದಾರರು ನನಗೆ ಹೊಡಿ ಬಡಿ ಮಾಡಿದ ಬಗ್ಗೆ ದೂರನ್ನು ಕೊಟ್ಟಿಲ್ಲ, ಆದರೆ ಕೊಡಲು ಹೋಗಿದ್ದೆ. ದಿನಾಂಕ 4-1-2019 ರಂದು ನಾನು ತವರು ಮನೆಗೆ ಬಂದೆ. ಆ ರೀತಿ ಬಂದವಳು ವಾಪಸ್ಸು ಎದುರುದಾರರ ಮನೆಗೆ ಹೋಗಿಲ್ಲ. ಎದುರುದಾರರ ಜೊತೆ ಬಾಳುವೆ ಮಾಡಬೇಕೆಂದು ನಾನು ಯಾವುದೇ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿಲ್ಲ.ಎದುರುದಾರರಿಗೆ ಸಹೋದರಿಯರು ಇಲ್ಲ. ಎದುರುದಾರರ ತಂದೆ ತೀರಿಕೊಂಡಿದ್ದಾರೆ. ನಾನು ಎದುರುದಾರರೊಂದಿಗೆ 3-4 ತಿಂಗಳು ಮಾತ್ರ ಬಾಳುವೆ ಮಾಡಿ ನಂತರ ತವರು ಮನೆಗೆ ಬಂದಿದ್ದೇನೆ ಎಂದರೆ ಸರಿ. ಆ ರೀತಿ ತವರು ಮನೆಗೆ ಬಂದವಳು ವಾಪಸ್ಸು ಎದುರುದಾರರ ಮನೆಗೆ ಹೋಗಿಲ್ಲ ಎಂದರೆ ನನಗೆ ಜೀವ ಬೆದರಿಕೆ ಇತ್ತು.....ನಾನು ಸದರಿ ನೋಟಿಸಿಗೆ ಉತ್ತರ ಕೊಟ್ಟಿಲ್ಲ ಎಂದರೆ ಸರಿ, ಕೊರೋನಾ ಇದ್ದ ಕಾರಣ ಉತ್ತರ ಕೊಟ್ಟಿಲ್ಲ. ನಾನು ಉತ್ತರ ಕೊಡದೇ ಇದ್ದ ಕಾರಣ

ಎದುರುದಾರರು ನಾನು ಅವರೊಂದಿಗೆ ಬಂದು ಬಾಳುವೆ ನಡೆಸುವಂತೆ ಕೋರಿ ಹಾವೇರಿ ಕೌಟುಂಬಿಕ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಎಮ್ ಸಿ 178/2020 ನ್ನು ದಾಖಲಿಸಿದ್ದರು ಎಂದರೆ ಸರಿ. ಸದರಿ ಅರ್ಜಿಯಲ್ಲಿ ನಾನು ಹಾಜರಾಗದೇ ಇರುವ ಕಾರಣ ದಿನಾಂಕ 21-1-2021 ರಂದು ಸದರಿ ಅರ್ಜಿಯನ್ನು ಪುರಸ್ಕರಿಸಲಾಗಿದೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನಾನು ಒಂದು ತಿಂಗಳ ಒಳಗೆ ಎದುರುದಾರರೊಂದಿಗೆ ಹೋಗಿ ಬಾಳುವೆ ಮಾಡಬೇಕೆಂದು ನ್ಯಾಯಾಲಯ ಆದೇಶ ಮಾಡಿತ್ತು ಎಂದರೆ ನನಗೆ ಆರೋಗ್ಯ ಸರಿ ಇರಲಿಲ್ಲ. ನನಗೆ ಒಂದು ತಿಂಗಳು ಟ್ರೈಫೈಡ್‌ನಿಂದ ಹುಪಾರಿರಲಿಲ್ಲ. ಆ ನಂತರ ನಾನು ಎದುರುದಾರರೊಂದಿಗೆ ಬಾಳುವೆ ಮಾಡಲು ಹೋಗಿದ್ದಾಗಲೀ, ನೋಟೀಸು ಕೊಡುವುದಾಗಲೀ ಮಾಡಿಲ್ಲ. ನಾನು ನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ಉಲ್ಲಂಘಿಸಿ ಈ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಸದರಿ ಅರ್ಜಿಯಲ್ಲಿ ಆದ ಆದೇಶವನ್ನು ನಾನು ಪಾಲನೆ ಮಾಡದೇ ಇರುವ ಕಾರಣ ವಿವಾಹ ವಿಚ್ಛೇದನೆ ಕೋರಿ ದಿನಾಂಕ 15-7-2022 ರಂದು ಎದುರುದಾರರು ನನಗೆ ವಕೀಲರ ಮೂಲಕ ನೋಟೀಸು ಕೊಟ್ಟಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ನೋಟೀಸಿನಲ್ಲಿ ಎಮ್ ಸಿ ನಂ. 178/ 2020 ರಲ್ಲಿ ಆದ ಆದೇಶದ ಪ್ರಕಾರ ಬಂದು ಬಾಳುವೆ ಮಾಡುವಂತೆ ಇಲ್ಲದೇ ಇದ್ದರೇ ವಿವಾಹ ವಿಚ್ಛೇದನೆ ಕೋರಿ ಅರ್ಜಿ ಸಲ್ಲಿಸುವುದಾಗಿ ಎದುರುದಾರರುಬರೆಸಿದ್ದರು ಎಂದರೆ ಸರಿ. ಸದರಿ ನೋಟೀಸು ಸ್ವೀಕರಿಸಿದ ನಂತರ ಎದುರುದಾರರೊಂದಿಗೆ ಹೋಗಿ ಬಾಳುವೆ ಮಾಡಲು ಪ್ರಯತ್ನಿಸಿದ್ದೀರಾ ಎಂದರೆ ಇಲ್ಲ. ನಾನು ಎದುರುದಾರರೊಂದಿಗೆ ಬಾಳುವೆ ಮಾಡಲು ಇಚ್ಛೆ ಇಲ್ಲದೇ ಇರುವ ಕಾರಣ ಜೀವನಾಂಶ ಕೋರಿ ಈ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನಾನೇ ಯಾವುದೇ ಕಾರಣ ಇಲ್ಲದೇ ಎದುರುದಾರರನ್ನು ಸ್ವತಃ ತ್ಯಜಿಸಿ ತವರು ಮನೆಯಲ್ಲಿ ವಾಸ ಇದ್ದೇನೆ ಎಂದರೆ

ಸರಿಯಲ್ಲ. ಎದುರುದಾರರು ಇಂದಿಗೂ ಸಹ ನನ್ನನ್ನು ಕರೆದುಕೊಂಡು ಹೋಗಿ ಜೀವನ ನಡೆಸಲು ಸಿದ್ಧರಿದ್ದಾರೆ ಎಂದರೆ ನನಗೆ ಅವರಿಂದ ಜೀವ ಬೆದರಿಕೆ ಇದೆ. ಎದುರುದಾರರು ನ್ಯಾಯಾಲಯಕ್ಕೆ ಮುಚ್ಚಳಿಕೆ ಬರೆದುಕೊಟ್ಟರೆ ಅವರೊಂದಿಗೆ ಹೋಗಲು ತಯಾರಿದ್ದೀರಾ ಎಂದರೆ ಇಲ್ಲ.ಎದುರುದಾರರು ನನಗೆ ಹೊಡಿ ಬಡಿ ಮಾಡಿ ಜೀವ ಬೆದರಿಕೆ ನೀಡಿದ್ದಾರೆ. ಮದುವೆಯಾದ ಸ್ವಲ್ಪ ದಿನಕ್ಕೆ ಎದುರುದಾರರು ನನಗೆ ಹೊಡಿ ಬಡಿ ಮಾಡಿ ಕೈಗೆ ಗಾಯಪಡಿಸಿದ್ದಾರೆ. ಆ ಬಗ್ಗೆ ನಾನು ಹಾವೇರಿಯ ಹೆಗ್ಗೇರಿ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ತೋರಿಸಿದ್ದೇನೆ. ತಾರೀಖು, ತಿಂಗಳು, ಇಸವಿ ನೆನಪಿಲ್ಲ. ಖಾಸಗಿ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ಚಿಕಿತ್ಸೆ ಪಡೆದರೆ ಚೀಟಿ ಕೊಡುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ಹೆಗ್ಗೇರಿ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ಚಿಕಿತ್ಸೆ ಪಡೆದ ಬಗ್ಗೆ ದಾಖಲೆ ಹಾಜರುಪಡಿಸಿದ್ದೀರಾ ಎಂದರೆ ಇಲ್ಲ. ಹೆಗ್ಗೇರಿ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ತೋರಿಸಿದ್ದೇನೆ ಎಂದು ಸುಳ್ಳು ಹೇಳುತ್ತಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನನಗೆ ಯಾವುದೇ ಗಾಯಗಳು ಆಗದೇ ಇದ್ದ ಕಾರಣ ಹೆಗ್ಗೇರಿ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ಚಿಕಿತ್ಸೆ ಪಡೆದಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಎದುರುದಾರರು ನನಗೆ ನೋಟೀಸು ಕೊಟ್ಟ ನಂತರ ಹಾವೇರಿಯ ಮಾನ್ಯ ಕೌಟುಂಬಿಕ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ವಿವಾಹ ವಿಚ್ಛೇದನೆ ಕೋರಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ನಾನು ವಕೀಲರ ಮೂಲಕ ಹಾಜರಾಗಿದ್ದೇನೆ ಎಂದರೆ ಸರಿ.....ಮದುವೆಯ ಸಮಯದಲ್ಲಿ ಎದುರುದಾರರು ನನಗೆ 4 ತೊಲೆ ಬಂಗಾರದ ಒಡವೆಗಳನ್ನು ಹಾಕಿದ್ದಾರೆ ಎಂದರೆ 3 ತೊಲೆ ಒಡವೆ ಹಾಕಿದ್ದಾರೆ. ಮದುವೆಯಾದಾಗ ನಾನು ಪದವಿ ಮುಗಿಸಿದ್ದೆ ಎಂದರೆ ಬಿ ಇಡಿ ಓದುತ್ತಿದ್ದೆ. ಬಿ ಇಡಿ ಪದವಿ ಮುಗಿಸಲು ಎದುರುದಾರರೇ ನನಗೆ ಹಣ ಸಹಾಯ ಮಾಡಿದ್ದಾರೆ ಎಂದರೆ ಇಲ್ಲ. ಬಿ ಇಡಿ ಮುಗಿದ ನಂತರ ಎದುರುದಾರರೇ ನನಗೆ ಮೂರು ತಿಂಗಳು

ತರಭೇತಿಗೆ ಹಣ ಕೊಟ್ಟು ಕಳುಹಿಸಿದ್ದಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ.
 ನಾನೇ ಎದುರುದಾರರನ್ನು ಸ್ವತಃ ತ್ಯಜಿಸಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ.
 ನಾನು ತ್ಯಜಿಸಿರುವುದರಿಂದಲೇ ಎದುರುದಾರರು ನನ್ನ ವಿರುದ್ಧ
 ಹಾವೇರಿಯ ಮಾನ್ಯ ಕೌಟುಂಬಿಕ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ವಿವಾಹ
 ವಿಚ್ಛೇದನೆ ಕೋರಿ ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ.
 ಎದುರುದಾರರು ಈಗಲೂ ಸಹ ನನ್ನೊಂದಿಗೆ ಬಾಳುವೆ ಮಾಡಲು
 ಸಿದ್ಧರಿದ್ದಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನನ್ನ ಮತ್ತು ಎದುರುದಾರರ
 ಹಿರಿಯರು ಭದ್ರತೆ ಕೊಟ್ಟರೆ ಎದುರುದಾರರೊಂದಿಗೆ ಹೋಗಿ ಜೀವನ
 ಮಾಡಲು ತಯಾರಿದ್ದೀರಾ ಎಂದರೆ ಇಲ್ಲ.ನಾನೇ
 ದುಡಿದು ನನ್ನನ್ನು ಸಾಕಲು ನನಗೆ ಯಾವುದೇ ದೈಹಿಕ ನ್ಯೂನತೆ
 ಇಲ್ಲ ಎಂದರೆ ದೈಹಿಕ ನ್ಯೂನತೆ ಇಲ್ಲ, ಆದರೆ ಸ್ವತಃ ದುಡಿದು
 ಸಾಕಿಕೊಳ್ಳಲು ಕಷ್ಟ ಇದೆ.

34. On careful perusal of the aforesaid admissions it makes it crystal clear that the father of the petitioner no.1 had died when she was studying at 5th standard and the entire marriage expenses was borne by the family of the respondent and the family of the respondent had also given 3 tola of gold to the petitioner no.1 and it is after her marriage she has done the B.Ed. However, she refuses the suggestion that the respondent has borne all the expenses of B.Ed. But however, the very admission make it clear that her father had died when she was studying in 5th standard and her mother is poor and after the marriage, she had

completed her B.Ed, and the entire marriage expenses was borne by the family of the respondent probably looking to the fact that the family of the petitioner No.1 is poor, and under these circumstances, there are every chances that either the respondent or his family might have borne all the expenses of the petitioner no.1 in doing the degree of B.Ed.

35. The PW1 also clearly admitted that she is graduated in B.E. and B.Ed. (double graduation) and though in the petition and in her evidence states that she has given the police complaint regarding the ill-treatment of the respondent, but however, she has not produced any such document, and on the contrary, she states that the police have not taken the police complaint which, at this juncture can not be believed. The further careful perusal of the entire record goes to show that the petitioner No.1 had gone to her maternal house for the purpose of the delivery of the petitioner No.2 as per the customs prevailing in the Hindu society, since the first delivery has to be carried in the maternal house. Therefore, it goes to show that the petitioner no.1 voluntarily had been to her maternal house for the purpose of the delivery of the petitioner no.2 and she herself admitted that she had stayed in the house of the respondent for about 5 months alone. It seems within this period of 5 months, she might have got conceived and left to

her maternal house to deliver the petitioner no.2 as per the customs.

36. The crux of the admission comes when the PW1 states that even after the delivery of the petitioner No.2, she has not returned to the house of the respondent and claims life threat. She has given the ground that she was suffering from typhoid and therefore she could not appear in the MC.178/2020. But however, she has not produced any documents to show that she was suffering from typhoid and therefore, she could not appear in MC 178/2020. She also claims that she has sustained the injuries due to the assault of the respondent and has shown the injuries at Haveri Heggeri Hospital, but however, she has not produced any iota of documentary evidence to show that she has sustained the injuries due to the ill-treatment of the respondent. Therefore, the same goes to show that the PW-1 is not deposing truth before the court.

37. The further crux of the admission comes when the PW1 admits that even though the respondent is ready and willing to give an undertaking to the court, still the petitioner no.1 is not ready to join the respondent. The said suggestion was made two times, and at both the times, the PW1 has specifically refused, though it was offered to the petitioner

no.1, that the respondent would execute an undertaking and also give a security. But the same is refused by the PW1. Moreover, the PW1 also admits that she is physically fit, but however, unable to earn for herself. She has not stated the difficulty to earn herself with double degrees.

38. Therefore, the same goes to show how the very PW1 herself is refusing purposefully without any sufficient cause to join the respondent and she had stayed for about 5 months only in the matrimonial house with the respondent with the other members of the family of the respondent and after conceiving she left to her maternal house for the purpose of delivery of the petitioner no.2 and herself has not returned to join the respondent and probably it seems the petitioner noi.1 was willing to insist the respondent to maintain separate house at Hangal and she would work as a teacher in any private school. Interesting part comes when the learned counsel for the petitioner during the cross-examination of the RW2 has made the following suggestion.

ಈಗಲೂ ಅರ್ಜಿದಾರಳು ಎದುರುದಾರನೊಂದಿಗೆ ಜೀವನ ಮಾಡಲು
ತಯಾರಿದ್ದಳು ಎಂದರೆ ಸಾಕ್ಷಿಯು ಅವರ ಮಾವ ನ ಕೇಳಿ ಹೇಳುತ್ತಾನೆ
ಎಂದು ಹೇಳಿದಳು 2ನೇ ಬಾರಿ ಹೋದಾಗ ಬರುವುದಿಲ್ಲ ಎಂದು
ಹೇಳಿದಳು. ನಾನು ನನ್ನ ಅಕ್ಕ, ಇನ್ನೊಬ್ಬ ಮಾವ ಸೇರಿ
ಅರ್ಜಿದಾರಳನ್ನು ಕರೆಯಲು ಹೊಸಪೇಟೆಗೆ ಹೋಗಿದ್ದೇವು

ಅರ್ಜಿದಾರಳ ಕಡೆಯಿಂದ ಬೇರೆ ಹಿರಿಯರು ಇದ್ದರೂ ಅವರ ಹೆಸರು
ಗೊತ್ತಿಲ್ಲ.

39. Therefore, the very PW1 through her advocate has suggested that she is willing to join the respondent. But however, in her own cross-examination discussed here in above, she has clearly refused to join the respondent even though the respondent is ready and willing to give an undertaking and the security. Therefore, the same goes to show that the petitioner no.1 is purposefully playing with the life of the respondent and purposefully refusing to join the respondent and has purposefully remained absent in MC 178/2020 and it seems without any sufficient reason she has refused to join the respondent and therefore, the respondent was constrained to issue lawyer notice as per Ex.R6 and when that was not properly replied, the respondent was constrained to file the divorce petition before the proper court. As already discussed the very PW1 admits that the family of the respondent has given 3 tola of gold to the PW1 and she can maintain herself out of the said gold and also she has done double degree, i.e., B.A. and B.Ed. and she has also admitted that she is physically fit and therefore, the PW1 is fit fine and able, both physically and academically, to maintain herself and the petitioner No.2 and she is purposefully refusing to join the respondent

without any sufficient cause. Therefore, I am of the opinion that the petitioners have failed to establish the sufficient cause as mentioned in Section 125(4) of CrPC, in which case the present claim petition is not maintainable. Hence, this point is answered accordingly.

40. **Point No.5**: In view of the reasons discussed above this court proceeds to pass the following:

ORDER

The petition filed by the petitioners under Section 125 of Criminal Procedure Code is hereby dismissed with cost.

Supply free copy of this judgment to the petitioners.

(Dictated to the Stenographer directly on computer, script revised, corrected, signed by me and then pronounced in open Court on this 01st day of August, 2026)

(Mahesha S.Patil)

Prl. Senior Civil Judge and JMFC,
Hangal

ANNEXURE

List of witnesses examined on behalf of the petitioners:

PW1 : Smt.Tanusri, W/o Chandrashekhar
Karidyamannanavar,

List of documents marked on behalf of the petitioners:

Ex.P1 : Marriage Invitation Card
Ex.P2 : Birth certificate of PW2
Ex.P3 & 4 : Aadhaar cards of the petitioners
Ex.P5 : RTC extract,
Ex.P6 to 8 : Photographs,
Ex.P9 : CD.

Witnesses examined on behalf of the respondent:

RW1 : Chandrashekhar Karidyamannanavar,
RW2 : Nagaraj Parappa Ayatti

Documents marked on behalf of the respondent:

Ex.R1 to 4 : Certified copy of order sheet, petition,
decree and notice in MC.No.178/2020
Ex.R5 : Certified copy of Postal Acknowledgment
Ex.P6 : Certified copy of Legal notice.

(Mahesh S.Patil)

Prl Senior Civil Judge and JMFC,
Hangal