

KAHV300020562022



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

Present: Smt.Anitha, B.A. (Law) L.L.B.,
Senior Civil Judge & JMFC.,
Hangal.

Dated this the 15th day of February, 2024.

Crl.Misc.No.139/2022

- Petitioners:
1. Smt.Rekha, W/o Nagaraja Talavar,
Aged 26 years, Housewife,
R/at Heruru village,
Hangal Taluk, Haveri District.
Presently residing at Hirur village,
Hangal Taluk, Haveri District.
 2. Malatesha, S/o Nagaraja Talavar,
Aged 02 years, R/at Heruru village,
Hangal Taluk, Haveri District.
Presently residing at Hirur village,
Hangal Taluk, Haveri District.
 3. Archana, D/o Nagaraja Talavar,
Aged 11 months, R/at Heruru village,
Hangal Taluk, Haveri District.
Presently residing at Hirur village,
Hangal Taluk, Haveri District.

(Since petitioners No.2 and 3 are minors
represented by their guardian/mother
petitioner No.1)

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

-Vs-

Respondent: Nagaraja, S/o Basavanappa Talavar,
Aged 30 years, Agriculturist and mason,
R/at Heruru village, Hangal Taluk ,
Haveri District.

(By: Sri.S.V.Muradannanavar, Advocate)

1. Provision under which the application is filed : Under Section 125(1)(d) of Criminal Procedure Code
2. Relief sought for : For interim maintenance
3. The date on which the application is filed : 19.08.2022
4. Number of the application : IA.No.1
5. The date on which the objection is filed by the opponent : 26.08.2023
6. The date on which the orders passed on the said application : 15.02.2024

ORDERS PASSED ON IA NO.I

The petitioners have filed IA No.I under Section 125(1)(d) of Criminal Procedure Code seeking interim maintenance of Rs.15,000/- per month from the respondent.

2. The application is supported with the affidavit of the 1st petitioner stating that, the respondent is her husband and petitioners No.2 and 3 are her children. Her marriage with the respondent was solemnized on 20.04.2018 in the house of the respondent situated at Herur village of Hangal Taluk as per Hindu customs and rituals. After the marriage she started residing with the respondent and they lived happily for about 4

years. It is further stated that, when she delivered the 2nd petitioner, the respondent not come forward to see child and as per customs her parents have taken herself and the 2nd petitioner to the house of the respondent and at that time the respondent insulted them and the panchayath was held in the presence of her brother Manju Talavara and elders of the village by name Veerappa Rudrappa Bailavala, Shivappa Kenchappa Basapura. But the respondent not followed the advise of the elders. The respondent developed suspicion character towards her and at the time of the marriage as per the demands of the respondent, her parents have paid Rs.1,00,000/-, five tola of gold ornaments. It is stated that, after the marriage only for two years they lived happily. The respondent has subjected her to mental and physical cruelty even during her pregnancy. It is further stated that, when she tried to lodge the complaint the respondent given life threat to her. On 23.05.2022 the responded thrown her out from the house when she was pregnant of 3rd petitioner. It is further stated that, the respondent had retained the 2nd petitioner with him forcibly and when she has lodged the complaint before Mahila Santvana Kendra Hangal, the respondent handed over the 2nd petitioner. It is also stated that, the respondent is having property at Herur village in RS No.73/8B measuring 1 acres 9 guntas, RS No.87/1 measuring 1 acre 9 guntas and RS No.87/2 measuring 1 acre 10 guntas. It is also stated that, the

respondent is getting annual income of Rs.5,00,000/- and he is also doing mason work from which he is earning Rs.25,000/- per month. The petitioners are not having any independent source of income and the respondent has willfully neglected to maintain the petitioners. Hence, prayed to allow the application.

3. After the filing of the application the respondent appeared and filed objection to the main petition and also filed memo to treat the objection filed to the main petition as objection to this application. In the said objection statement the respondent has denied all the allegations made against him by the petitioners. He has admitted that, the 1st petitioner is his legally wedded wife and petitioners No.2 and 3 are his children. He has also admitted about the date and place of marriage. However, in the objection the respondent contended that, the 1st petitioner wanted to lead a luxurious life but, the respondent is earning his livelihood by doing coolie work. The 1st petitioner was demanding for clothes and gold ornaments every time and when he failed to fulfill her demands, she use to abuse him in filthy language. The 1st petitioner was not preparing food properly and threatened him to send to the jail on dowry harassment case. The 1st petitioner use to go to her parents house regularly and use to stay there for months together. It is also contended that, when he went for work at Sirsi the 1st petitioner left him along with all her belonging to

her parents house. It is also contended that, the 1st petitioner herself has left him and as such he is not liable to pay maintenance to the petitioners. Hence, prayed to dismiss the application with costs.

4. 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 have made out sufficient grounds for grant of interim maintenance at Rs.15,000/- per month from the respondent pending disposal of the petition?
2. What order?
5. The findings on the above points are as hereunder:

Point No.1: Partly in the affirmative

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

REASONS

6. **Point No.1:** The petitioners have filed this petition against the respondent under Section 125(1) (d) of Cr.P.C seeking monthly maintenance of Rs.15,000/-. It is an admitted fact that, the 1st petitioner is the wife and petitioners No.2 and 3 are the children of the respondent. It is also an admitted fact that, the marriage of the 1st petitioner with the respondent was

solemnized on 20.04.2018 at Hirur village in the house of the respondent. As per the petitioners at the time of marriage her parents have given Rs.1,00,000/- cash, 5 tola of gold ornaments, Rs.15,000/- towards clothes and household articles worth Rs.50,000/-. The respondent in his objection statement admitted the date and place of the marriage. It pertinent to note that, at the time of filing the petition the 1st petitioner was pregnant of the 3rd petitioner. As per the petitioners, the respondent has neglected to maintain the petitioners. It is an admitted fact that, the 1st petitioner lodged the complaint against the respondent before Mahila Santvana Kendra Hangal and the respondent has not come forward to look after the petitioners. It is an admitted fact that, now the petitioners are residing in the parents house of the 1st petitioner. Nowhere in the objection statement the respondent stated that, he has made any arrangements for the maintenance of the petitioners.

7. The petitioners claimed interim maintenance of Rs.15,000/- per month. As per the petitioners the respondent is an agriculturist as well as doing mason work. In the petition the petitioners have stated that, the respondent is having property. However in his objection statement the responded has denied the said facts and contended that, he is only doing coolie work. As per respondent, the 1st petitioner wants to lead luxurious life and for that she has left him without any valid

reasons. All the affidavit averments of the 1st petitioner has made out prima-facie case which shows that, now the petitioners are having no source of their own income.

8. In support of the case the petitioners got produced the RTC pertaining to RS No.73/8B measuring 1 acre 3 guntas, RTC of RS No.87/1, RS No.87/2 and RS No.105/1A of Herur village. All the said properties are standing in the joint names of the respondent and his family members. The said documents clearly establish that, the respondent is also an agriculturist. In the objection statement the respondent also stated that, he is doing coolie work. Therefore, this court comes to the conclusion that, if the respondent is directed to pay monthly interim maintenance of Rs.2,000/- to the 1st petitioner and Rs.1,000/- each to the petitioners No.2 and 3 it will meet the ends of justice. In view of the discussions made above this court comes to the conclusion that, the petitioners have made out sufficient grounds to grant interim maintenance as above. Accordingly, point No.1 is answered partly in the affirmative.

9. **Point No.2:** In view of the reasons discussed above this court proceeds to pass the following:

ORDER

IA No.I filed by the petitioners under Section 125(1)(d) of Criminal Procedure Code is hereby partly allowed with costs of Rs.500/-.

Consequently, the respondent is hereby directed to pay monthly interim maintenance of Rs.2,000/- to the 1st petitioner and Rs.1,000/- each to petitioners No.2 and 3 from the date of the petition till disposal of this petition.

(Dictated to the Stenographer, transcribed and computerized by him on the computer, the transcript corrected and pronounced by me in the open court on this the 15th day of February, 2024.)

Sd/-

(Anitha)

Senior Civil Judge and JMFC,
Hangal