KAMD410028042019

Presented on : 26-11-2019
Registered on : 26-11-2019

IN THE COURT OF THE PRL.CIVIL JUDGE & JMFC, AT MALAVALLI

PRESENT

NAZIA KOUSER, B.E., LL.B.
PRL.CIVIL JUDGE & JMFC,
MALAVALLI

Dated this the 14th day of July-2026

CRL. MISC. NO.386/2019

PETITIONER:

Smt. Jamuna
W/o M. Umesha
Aged about 27 years
R/o Ayyanavarahundi Village,
B.G.Pura Hobli,
Malavalli Taluk, Mandya District.

(By Sri N.S.S, Advocate)

//Versus//

RESPONDENT:

Sri. M. Umesha
S/o Mahadevaiah
Aged about 34 years
R/o Malinathapura Village,
B.G.Pura Hobli,
Malavalli Taluk, Mandya District.

Present Residing at
M. Umesha
S/o Mahadevaiah
C/o Chettinad Cement Colony
No.D9/33, Kallur Village
Chincholli Taluk, Kalburgi District.

(By Sri G.G.S, Advocate)

O R D E R

The Petitioner has filed the present petition under Section 125 of Code of Criminal Procedure seeking monthly maintenance of Rs.20,000/- from the Respondent.

2. The averments of the petition in brief are as under:

The petitioner has averred in the petition that she is the legally wedded wife of the respondent, their marriage was solemnized on 21.04.2014 at Shree Jagadguru Shivarathreshwara swamy Kalyana Mandira, Mudukuthore, Talakadu Hobli, T.Narsipura Taluk, Mysore district in accordance with the customs and traditions prevailing in their community. At the time of marriage, her father gave Rs. 2,50,000/- in cash, gifted gold ornaments including one gold chain and two gold rings, customary gift articles worth approximately Rs. 2,00,000/-, and clothing as per the demand od respondent and his family. The parents of petitioner also bore the entire marriage expenses.

3. It is further stated that from the very beginning of the marriage, the respondent subjected her to continuous physical and mental cruelty for trivial reasons. He was addicted to alcohol, gambling, and womanizing, neglected her completely, and repeatedly harassed her. Although she informed her mother and brothers about the respondent's conduct, they advised her to continue the marital relationship to protect the family's reputation.

4. The petitioner further states that her father repeatedly counselled and consoled her to continue living with the respondent. She tolerated the abuse to preserve the family's honour and avoid becoming a burden on her parents. However, the respondent's behaviour allegedly worsened, and he assaulted her indiscriminately without any justification. When she questioned his conduct, she was allegedly assaulted and forcibly driven out of the matrimonial home. Thereafter, elders from both families intervened, and the respondent allegedly admitted his mistakes and assured them that he would take proper care of the petitioner if she returned. Relying upon these assurances, she resumed cohabitation. However, the respondent resumed his abusive behaviour, assaulted her again, and ultimately drove her out

of the matrimonial home for a second time. Consequently, she has been compelled to live separately.

5. The petitioner further contends that the respondent is habitually intoxicated, frequently returns home drunk, creates disturbances during the night, physically assaults her without cause, and subjects her to severe mental cruelty. The respondent threatened to kill her so that he could marry another woman of his choice.

6. The petitioner further states that she has no independent source of income and is presently residing with her paternal uncle at B.G. Molle Village, B.G. Pura Hobli, Malavalli Taluk, Mandya District. She is entirely dependent upon him for her livelihood. The respondent is employed as a Junior Officer in the Purchase and Stores Department of Chettinad Cement Corporation (P) Ltd., Kallur Village, Chincholi Taluk, Kalaburagi District, earning approximately Rs. 45,000/- per month. She further alleges that he owns a residential house and agricultural lands at Mallinathapura Village and earns an additional income of about Rs. 1,00,000/- per annum from leasing agricultural land.

7. Despite having adequate income the respondent has willfully neglected and refused to maintain the petitioner. The respondent is legally bound to maintain the petitioner, and therefore, she require maintenance of Rs.20,000/- per month for her livelihood. Therefore, the petitioner prayed to allow the petition.

8. The respondent has filed objections to the petition, wherein he has admitted the marital relationship with the petitioner and denied all the other allegations made in the petition. It is contended that although the marriage has subsisted for about six years, the petitioner resided in the matrimonial home only for a few months when the respondent was employed at Chincholi. The petitioner's parents and relatives repeatedly took her back to her parental home and did not permit her to reside permanently with him. On several occasions, village elders convened panchayats to resolve the matrimonial dispute, following which the petitioner was brought back to the matrimonial home. However, within a short period, her relatives, including Nagendra and Raju, would again take her away to her parental house. Despite repeated efforts and interventions by

elders, the petitioner continued to leave the matrimonial home.

9. It is further contended that in the year 2018, while the respondent was away at work, the petitioner's family members came with village elders and took the petitioner away from the matrimonial home without informing the respondent. Since then, the petitioner has not returned to the matrimonial home. Thereafter, the respondent lodged a complaint before the Belakavadi Police Station regarding the matter, wherein the petitioner stated that she was willing to live with her husband. However, despite making such a statement, she has not returned to the matrimonial home and continues to reside her parental house.The petitioner caused mental and physical distress to the respondent and failed to discharge her marital obligations.

10. It is further asserted that the petitioner remained at her parental home for most of the six years of marriage and did not reside with the respondent despite repeated efforts made by him and the intervention of elders to bring her back to the matrimonial home. The petitioner voluntarily left the matrimonial home on the advice and influence of her

parents, brother, and other relatives without any justifiable cause. On these grounds, the respondent prays for dismissal of the petition.

11. In order to substantiate her case, the petitioner examined herself as P.W.1 and produced two documents, which were marked as Ex.P.1. On the other hand, the respondent examined himself as R.W.1 and got marked Ex.R1 to R13.

12. Heard the arguments of the learned counsel for the petitioner. Despite sufficient opportunity, the respondent's counsel did not advance arguments. Perused the materials available.

13. The following points arise for consideration by this court:

1. Whether the petitioner has proved that, the respondent inspite of having sufficient means, has refused or neglected to maintain her without reasonable cause?
2. Whether the petitioner has further proved that, she is unable to maintain herself ?
3. Whether the petitioner is entitled for maintenance against the respondent? If so, to what extent?
4. What Order?

14. The findings of this court to the above points are as under:

POINT NO.1 : In the Affirmative.

POINT NO.2 : In the Affirmative

POINT NO.3 : In the Partly Affirmative

POINT NO.4 : As per final order,

For the following: -

R E A S O N S

15. **POINTS NO.1 and 2**: -These points are taken up together for the sake of brevity and to avoid repetition of facts.

16. In order to substantiate her case, the petitioner examined herself as P.W.1 and produced two documents, which were marked as Ex.P.1. Ex.P.1 is the marriage invitation card.

17. P.W.1, in her evidence, has deposed that the respondent is her husband and that their marriage was solemnized on 21.04.2014. She has further stated that from the very beginning of the marriage, the respondent subjected her to continuous physical and mental cruelty for trivial reasons. It is pertinent to note that the marital relationship between the parties is not in dispute. The respondent has categorically admitted in his statement of objections that the petitioner is his legally wedded wife.

18. P.W.1 has further deposed that the respondent was addicted to alcohol, gambling, and womanizing, neglected her completely, and repeatedly harassed her. The respondent was habitually intoxicated, frequently returned home drunk, createed disturbances during the night, physically assaulted her without cause, subjected her to severe mental cruelty and threatened to kill her. Though these allegations have been specifically denied by the respondent in his statement of objections, the petitioner has not produced any documentary evidence in support of the said allegations. Further, no independent witness has been examined to corroborate her version. In the absence of any corroborative evidence, the allegations regarding dowry demand and cruelty cannot, by themselves, be accepted as proved.

19. P.W.1 has further deposed that she has no independent source of income and is unable to maintain herself. The respondent has failed to provide any maintenance for her livelihood. Although a panchayat was convened to resolve the matrimonial dispute between the parties, the respondent neither resumed cohabitation nor paid any amount towards her maintenance. Though P.W.1

was subjected to cross-examination, nothing worthwhile was elicited to discredit her testimony.

20. The respondent examined himself as R.W.1 and got marked Ex.R1 to 12. Ex.R-1 to 4 are the certified copies of the order sheet, copy of the petition, judgment and decree and deposition of the respondent in M.C. No. 23/2020. Ex.R-5 and 6 are the certified copy of the marriage invitation card and photograph. Ex.R-7 to 9 are the hospital receipts. Ex.R-10 is the acknowledgment issued by the police. Ex.R-11 and 12 are the certified copies of notice issued by the court and the postal cover. Ex.R-13 is the statement.

21. RW.1 has deposed that the petitioner is his legally wedded wife and that their marriage was solemnized on 21.04.2014 at Shree Jagadguru Shivarathreshwara Swamy Kalyana Mandira, Mudukuthore. From the beginning of the marriage, the petitioner refused to establish physical relations and was unwilling to continue the marital relationship.After about one year of marriage, the petitioner left for her parental home and stayed there for long periods on the pretext of her mother's ill health. Despite repeated

requests, panchayats convened by village elders, and his willingness to continue the marriage, she did not resume cohabitation. He is working as daily wage labourer in Chettinad Cement company.

22. RW.1 further deposed that the petitioner's father insisted that he resign from his employment and relocate to Bengaluru, which he declined. The petitioner later imposed a condition that she would return only if he severed ties with his family. He also deposed that the petitioner was suffering from PCOS, for which he had arranged medical treatment, but she concealed her condition and prevented him from informing her family. On 23.01.2019, he lodged a complaint before the Belakavadi Police Station (NCR No. P.0873190600037) seeking police intervention to bring the petitioner back to the matrimonial home. Although she expressed willingness before the police to return, she never resumed cohabitation.

23. During cross-examination, R.W.1 admitted that he and the petitioner resided together for about five years after the marriage and that he is presently earning about Rs.35,000/- per month. He has not paid any maintenance or deposited

any amount in favour of the petitioner after they started living separately. This admission is of considerable significance, as it clearly establishes the respondent's negligence to take care of petitioner. The marital relationship between the parties is admitted. The petitioner has consistently deposed that she has no independent source of income and is unable to maintain herself. The respondent has failed to place any cogent documentary evidence to substantiate his plea regarding his income or financial incapacity. In view of the evidence on record and the admissions elicited during the cross-examination of R.W.1, this Court is of the considered opinion that the petitioner has established that she is unable to maintain herself and that the respondent has neglected and refused to maintain her.

24. It has been held in a ruling reported in **2001(2) CCC 190** in the case **Pilli Rajkumar V/s Pilli Siva Kumari and another** that, maintaining wife and children is not moral obligation but a legal duty cast upon the husband and he is bound to maintain his wife and children. Therefore, for the above said reason and in the light of the principle enunciated in the aforesaid ruling, this court answers Point No.1 and 2 in the Affirmative.

25. **POINT NO.3:** In In view of the findings recorded on Point Nos. 1 and 2, this Court holds that the petitioner has established that the respondent, despite having sufficient means, has neglected and refused to maintain her and that she is unable to maintain herself. Consequently, the petitioner is legally entitled to claim maintenance from the respondent. The only question that remains for consideration is the quantum of maintenance payable to the petitioner.

26. The petitioner has contended that the respondent employed as a Junior Officer in the Purchase and Stores Department of Chettinad Cement Corporation (P) Ltd., Kallur Village, Chincholi Taluk, Kalaburagi District, earning approximately Rs. 45,000/- per month. The respondent owns a residential house and agricultural lands at Mallinathapura Village and earns an additional income of about Rs. 1,00,000/- per annum from leasing agricultural land. However, she has not produced any documentary evidence, such as pay slip, revenue records or other material, to substantiate the said contention regarding the respondent's income or ownership of properties.

27. It has been held in a ruling reported in **AIR 2001 GUJ. 157 in the case of Smt. Prafullaben Dheerubhai**

Kanjiya V/s Dheerubhai Kachrabhai Kanjiya that, it is for the respondent to produce documents in proof of his income as he is in possession of the same. In the present case, the respondent has not produced any documents in proof of his income. Under such circumstances, adverse inference has to be drawn against the respondent.

28. In the present case, although the respondent has contended that he is only a daily wage labourer in Chettinad Cement company and has not produced any documentary evidence whatsoever to substantiate his plea. Hence, an adverse inference is liable to be drawn against the respondent regarding his actual income and earning capacity.

29. The petitioner has filed an affidavit of assets and liabilities, wherein she has disclosed that she has no independent source of income. On the other hand, despite sufficient opportunities having been granted, the respondent has failed to file his affidavit of assets and liabilities. Such non-compliance also warrants drawing an adverse inference against him while assessing his financial capacity.

30. The petitioner has claimed maintenance of Rs.10,000/-p.m. **The Hon'ble High Court of Gujarat has**

held in a ruling reported in AIR 2001 GUJ. 157 that, while arriving at a reasonable figure of maintenance amount, the Courts should take into account all the requirements of food, clothes, house, medical expenses, etc.

31. Keeping in view the material available on record, the rising cost of living and prices of essential commodities, the needs of the petitioner, and the earning capacity of the respondent, this Court is of the considered opinion that awarding Rs.4,000/- per month as maintenance would be just, fair, and reasonable in the facts and circumstances of the case. Accordingly, Point No.3 is answered Partly in the Affirmative.

32. **POINT NO.4**: - In view of the above discussion and findings, I proceed to pass the following:

O R D E R

The Petition filed by the Petitioner U/Sec.125 of Code of Criminal Procedure is hereby partly allowed.

The respondent is directed to pay maintenance of Rs.4,000/- (Rupees Four Thousand only) per month to the petitioner from the date of filing of the petition till her lifetime.

Supply free copy of this order to the petitioner.

(Dictated to the Stenographer on Computer directly, typed by him, Order corrected and signed by me, then pronounced by me in the Open Court on this the 14th day of July-2026).

(NAZIA KOUSER)
PRL.CIVIL JUDGE & JMFC,
MALAVALLI

ANNEXURES

1. List of the Witnesses examined on behalf of Petitioner:

P.W.1 : S. Jamuna

2. List of the Documents marked on behalf of Petitioner:

Ex.P.1 : Marriage Invitation card

3. List of the Witnesses examined on behalf of Respondents:

R.W.1 : Umesh M.

4. List of the Documents marked on behalf of Respondents:

Ex.R-1 to 4 : Certified copies of the order sheet, petition, judgment and decree & deposition of the respondent in M.C. No. 23/2020.

Ex.R-5 & 6 : Certified copy of the marriage invitation card and photograph.

Ex.R-7 to 9 : Hospital receipts.

Ex.R-10 : Acknowledgment issued by the police.

Ex.R-11&12 : Certified copies of notice issued by the court and the postal cover.

Ex.R-13 : Statement.

PRL.CIVIL JUDGE & JMFC,
MALAVALLI