

KAMD410032432017



Presented on : 27-11-2017

Registered on : 28-11-2017

**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 10th day of July-2026

CRL. MISC. NO.396/2017

PETITIONER:

Smt. Asha W/o Dilip
D/o Sannegowda
Aged about 25 years
R/o Pandithhalli Village,
B.G.Pura Hobli,
Malavalli Taluk, Mandya District.

(By Sri P.S.R., Advocate)

//Versus//

RESPONDENT:

Sri. Dilip S/o Sannaveeregowda
Aged about 29 years
R/o Aladahalli Village,
Kirugavalu Hobli,
Malavalli Taluk, Mandya District.

(By Sri K.D.N, Advocate)

ORDER

The Petitioner has filed the present petition under Section 125 of Code of Criminal Procedure seeking monthly maintenance of Rs.10,000/- 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 25.05.2014 at Sri Mahadeshwara Temple, Hosahalli Village, in accordance with the customs and traditions prevailing in their community. At the time of the marriage, the petitioner's parents gave gold ornaments weighing 45 grams, comprising a 5-gram matti, a 25-gram chain with dollar, 5-gram jumkis, and 10 grams of hangings, besides Rs.10,000/- in cash towards clothing and a wristwatch for the respondent.

3. The petitioner further submits that after the marriage, she and the respondent lived happily for a few days at Aladahalli Village. Thereafter, as the respondent's mother was residing at Kengeri Upanagar, Bengaluru, the petitioner and the respondent shifted there. Both of them were employed in a garment factory for about three to four

months, and they used to hand over their entire salaries to the respondent's mother. The respondent's mother also took possession of the petitioner's gold ornaments. After some time, the respondent's mother began harassing the petitioner by demanding additional dowry. The respondent, acting at the instigation of his mother, also subjected the petitioner to physical and mental cruelty and joined in making unlawful demands for additional dowry. The petitioner was unable to bear the continuous harassment, returned to Aladahalli Village, where the respondent's family resided. However, the respondent continued to harass her for additional dowry.

4. The petitioner further submits that the respondent was residing with his grandmother, and at her instigation, he failed to provide the petitioner with basic necessities and neglected and deserted her. The respondent repeatedly demanded additional dowry, abused the petitioner in filthy language, subjected her to physical and mental cruelty, and ultimately drove her out of the matrimonial home. Consequently, the petitioner lodged a complaint before the Kirugavalu Police Station against the respondent. However, owing to the respondent's political and financial influence, the police failed to register a case. Although the respondent

assured the police that he would look after the petitioner and took her back to the matrimonial home, but he did not mend his ways. Subsequently, a panchayat was convened, but despite the advice of the elders, the respondent failed to mend his ways, continued to ill-treat the petitioner, and once again deserted her.

5. The petitioner further submits that at present, she has been residing for the last six months at her maternal uncle's house in Pandithahalli. She has no independent source of income. Her father is no more, and she and her mother are residing in her maternal uncle's house. To meet her basic needs, the petitioner is working as a coolie. the respondent owns agricultural landed properties, cattle, and sheep, and is engaged in rearing animals, and earns a monthly income of approximately Rs.30,000/-. The respondent is financially sound and possesses sufficient means to maintain the petitioner. Despite having adequate income and the legal obligation to do so, 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.10,000/- per month for her

livelihood. Therefore, the petitioner prayed to allow the petition.

6. 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 the respondent is working as a coolie to earn his livelihood and does not have sufficient means to pay maintenance to the petitioner. He has always been ready and willing to resume cohabitation and lead a peaceful matrimonial life with the petitioner. The petitioner left the matrimonial home without any sufficient cause. The petitioner failed to take proper care of him and his mother, frequently picked up quarrels over trivial issues, and subjected him to mental harassment. The respondent treated the petitioner with love and care and fulfilled all his matrimonial obligations. Despite the same, the petitioner left the matrimonial home at the instance of her mother. The present petition has been filed only to harass him and extract money from him. A panchayat was convened, wherein the petitioner was advised to rejoin the company of the respondent. However, the petitioner refused to do so and

has continued to reside with her mother. On these grounds, the respondent has prayed for dismissal of the petition.

7. 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 and P.2. On the other hand, the respondent examined himself as R.W.1 and also examined one witness, namely Narasaiah, as R.W.2. However, the respondent did not produce or mark any documentary evidence in support of his defence.

8. 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.

9. 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?

10. 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: -

REASONS

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

12. 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 and P.2. Ex.P.1 is the marriage invitation card and Ex.P.2 is the marriage photograph.

13. P.W.1, in her evidence, has deposed that the respondent is her husband and that their marriage was solemnized on 25.05.2014. She has further stated that after the marriage, they lived together happily only for a few days. 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.

14. P.W.1 has further deposed that the respondent demanded additional dowry, abused her in filthy language, and subjected her to physical and mental cruelty. 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.

15. 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.

16. The respondent examined himself as R.W.1 and has deposed that the petitioner is his legally wedded wife and that their marriage was solemnized on 25.05.2014 at Sri Male Mahadeshwara Temple, Hosahalli Village, in the presence of elders and relatives, in accordance with Hindu customs and traditions. After the marriage, they resided for some time at Aladahalli Village. Thereafter, both of them shifted to Kengeri Upanagar, Bengaluru, where they worked in a garment factory for about three to four months. Since it became difficult for them to continue living in Bengaluru, they returned to their native village, Aladahalli, and started residing there. The petitioner thereafter left the matrimonial home on her own, stating that it was difficult for her to continue living with him, and went to her parental house at Pandithahalli Village. A panchayat was convened, the petitioner did not heed the advice of the panchayatdars. Thereafter, the petitioner lodged a false complaint against him before the Kirugavalu Police Station. He has no independent source of income, does not own any agricultural land, cattle, or goats as alleged by the petitioner, and earns his livelihood only by doing coolie work. He is not in a

position to pay maintenance of Rs.10,000/- per month, as claimed by the petitioner.

17. The respondent also examined one Narasaiah as R.W.2. In his evidence, R.W.2 deposed that the marriage between the petitioner and the respondent was solemnized on 25.05.2014 at Sri Male Mahadeshwara Temple, Hosahalli Village. According to him, after the marriage, the parties resided at Aladahalli Village for some time and thereafter shifted to Bengaluru, where both of them worked in a garment factory. Since they were unable to continue their livelihood in Bengaluru, they returned to Aladahalli Village. The petitioner subsequently left the matrimonial home and went to Pandithahalli Village. Thereafter, he, along with Rajendragowda H.B. of Hittanahalli Village and other elders, convened a panchayat, despite the advice of the panchayatdars, the petitioner did not agree to rejoin the respondent and instead lodged a false complaint against the respondent before the Kirugavalu Police Station. The respondent has no independent source of income, earns his livelihood by working as a coolie, does not own any movable or immovable property, and is therefore not in a financial position to pay maintenance to the petitioner.

18. It is pertinent to note that RW.2, did not submit himself to cross-examination. It is well-established that evidence from a witness who avoids cross-examination lacks probative value, and therefore, an adverse inference must be drawn against the witness, rendering his evidence untenable.

19. During the course of his cross-examination, R.W.1 categorically admitted that even if the petitioner was willing to resume cohabitation and join his company, he was not willing to take her back to the matrimonial home. This admission is of considerable significance, as it clearly establishes the respondent's unwillingness to resume the marital relationship. Consequently, the respondent cannot contend that the petitioner is residing separately without sufficient cause. 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. Though the respondent has contended that he is only a daily wage labourer and has no sufficient means, he 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.

20. 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.

21. POINT NO.3: 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.

22. The petitioner has contended that the respondent owns agricultural lands, cattle, and sheep, and is engaged in agriculture and animal rearing, earning a monthly income of approximately Rs.30,000/-. However, she has not produced any documentary evidence, such as revenue records or other material, to substantiate the said contention regarding the respondent's income or ownership of properties.

23. 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.

24. In the present case, although the respondent has contended that he is only a daily wage labourer and has no sufficient means, he 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.

25. 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.

26. 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.

27. 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.

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

ORDER

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 petitioners.

(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 10th day of July-2026).

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

ANNEXURES

List of the Witnesses examined on behalf of Petitioner:

P.W.1 : Asha

List of the Documents marked on behalf of Petitioner:

Ex.P.1 : Marriage Invitation card
Ex.P.2 : Photograph

List of the Witnesses examined on behalf of
Respondents:

R.W.1 : Dilip

R.W.2 : Narasaiah

List of the Documents marked on behalf of
Respondents:

--Nil--

**PRL.CIVIL JUDGE & JMFC,
MALAVALLI**