

KAMS010003962024



**IN THE COURT OF THE PRINCIPAL
DISTRICT AND SESSIONS JUDGE AT
MYSURU**

Dated this the 2nd day of April, 2026

PRESENT

Smt. Usharani, B.A.(Law), LL.B.,
Principal District & Sessions Judge,
Mysuru.

CrI.R.P. No.16/2024

Petitioner/s:

Vinod Kumar,
Son of Bandhigaiah,
Aged about 40 years,
Residing at Dodda Mulagodu
Village, Bannur Hobli,
T.Narasipura Taluk,
Mysuru District.

**[By Sri K R Shivashankar,
Advocate].**

V/s.

Respondent/s:

Sachin D V,
Son of Rashmi D M,
Wife of Vinod Kumar,
Aged about 10 years,
Since minor represented by his
natural mother and guardian
Smt. Rashmi D M,
Residing at Dodda Mulagodu Village,
Bannur Hobli, T.Narasipura Taluk,
Mysuru District.

**[By Sri/Smt. N Neethu Singh,
Advocate]**

ORDERS ON THE PETITION
UNDER SECTION 397 OF CR.P.C.

This revision petition has been filed seeking to set aside the order in Crl.Mis.71/2018 dated 18.11.2023 passed by learned Civil Judge & JMFC, T.Narasipura.

2. Parties are referred to as per their ranks in the Trial Court.

3. Facts of the case are as follows:

Petitioner is represented by natural guardian mother, who has filed application under Section 125 of Cr.P.C. seeking maintenance of Rs.10,000/- per month and educational expenses of Rs.30,000/- per annum from the respondent. Considering the fact that respondent has sufficient source of income, Trial Court has granted maintenance of Rs.8,000/- pm and litigation expenses of Rs.20,000/- and also to pay educational expense of the petitioner.

4. The grounds urged in the criminal revision petition are as follows:

1. The Trial Court without considering the fact that lands at Ex.P. 1 to 4 stand in the name of some other person, held that respondent has sufficient source of income.
2. The Trial Court has failed to consider the relationship existing between the respondent and the names found in Ex.P.1 to 4.
3. The Trial Court has failed to consider that Ex.P.13 and 14 are with regard to house property and from the said house property respondent is not getting any income.
4. The Trial Court failed to consider that respondent has got elder brother and sister and hence, if agricultural income is divided among all the children, respondent will get only meagre share.
5. The Trial Court has failed to consider respondent has got meagre salary by working as a lineman in CESSCOM, but Trial Court has wrongly held as he is gainfully employed.

6. The respondent has not disowned his liability and has accepted the parenthood. He had also deposited the amount awarded by the Trial Court.

7. There is no proper appreciation of evidence. Therefore, order of the Trial Court is arbitrary and capricious.

Hence, prayed to set aside the order dated 18.11.2023 passed in Crl.Mis.71/2018 by the learned Civil Judge & JMFC, T.Narasipura awarding maintenance of Rs.8,000/- pm and Rs.20,000/- towards litigation expenses and educational expenses of the respondent or modify the award granted by the Trial Court.

5. In pursuance of the service of notice of this revision petition, the respondent has appeared through his Advocate.

6. Heard the learned Advocate for revision petitioner and learned Counsel for the respondent.

7. The points that would arise for my consideration are as follows:

1. Whether the Trial Court has properly appreciated the oral and documentary evidence on record?
2. Whether the order of the Trial Court calls for interference?
3. What order?

8. My finding on the above points are as under:

Point No.1: In the **affirmative**.

Point No.2: In the **negative**.

Point No.3: As per final order
for the following:

REASONS

9. **POINT NO. 1 AND 2**: these points are taken up together in order to avoid repetition of facts.

10. At the outset, it is important to note here that, Trial Court has considered the fact that respondent has not denied the contention of the petitioner that petitioner is born to him and that he had also not denied the salary he is getting from working as a lineman in Chumundeshwari Electricity Supply Corporation Limited, Urashakhe, Nanjangud. Further Court has considered

the fact that child i.e., petitioner was born out of physical relationship between respondent and Rashmi the mother of the petitioner. But, further held that co-habitation was not during the course of legal marriage. Further Court has relied upon Ex.P.22 DNA report, wherein expert has opined that petitioner is born to the respondent. Further Trial Court held that even if petitioner is illegitimate child, if same is not considered, the object and purpose for which Section 125 of Cr.P.C has been introduced by the legislature would be frustrated and becomes redundant. The Trial Court held that whether petitioner is legitimate or illegitimate child, it is the responsibility of parents to look after the child and thereafter appreciated the documents produced at Ex.P.2 to 7 i.e., with regard to properties held by the respondent and by considering the salary as a lineman earned by the respondent, granted maintenance of Rs.8,000/- pm and also directed to pay educational expense from the date of petition.

11. According to petitioner, respondent under the pretext of marrying his mother, developed physical

relationship and when his mother had conceived, she informed the same to elders and hence, panchayaths was also held in the village, thereafter respondent has deceived her. Though date was fixed for the marriage, respondent along with his family members left the village. The respondent has denied the allegation that he had raped or had sexual intercourse with the petitioner against her wish, but, had admitted that with consent they had sexual intercourse. He had also took up a defence that Sessions Court has acquitted him by considering the fact that the version of mother of the petitioner cannot be believed, however PW-1 [mother of the petitioner] has unequivocally denied the case of respondent.

12. It is important to note here that, several attempts were made to establish before the Court that mother of the petitioner was major and she was aware of the consequences and legal action in case respondent had physical relationship against her wish. It is pertinent to note here that it is not the case of petitioner that

mother of the petitioner was unaware of consequences or legal action in such case and it is the case of the petitioner that his mother believed the respondent and they had physical relationship. Moreover, nowhere in the evidence respondent has denied having physical relationship with the mother of the petitioner. However it is also the defence of respondent that his name was included in the birth certificate with an ulterior motive and also taken up a contention that no documents are produced to show that petitioner is the son of respondent.

13. It is relevant to note here that in the delivery certificate Ex.P. 19 birth certificate Ex.P. 10, School certificates Ex.P. 23 and 24 pertaining to the petitioner name of the respondent shown as father of the petitioner. Even if it is considered that his name was shown in those documents against his wish or knowledge, since it is the case of the parties that no marriage was held and they were not living together, it is clear that in such case there will not be consent to include the name of respondent as

father of the petitioner. That apart, there is important document before the Court which Trial Court has rightly relied i.e., Ex.P.22 DNA report, wherein scientific officer DNA center Bengaluru has opined as follows:

"From the DNA profile of the above samples 1, 2 and 3 it is found that:

1. The DNA profile of the sample blood sent in item No.2, male child Master Sachin S/o Ms. D M Rashmi is consistent with having come from the offspring of Sri D B Vinod Kumar S/o Sri B Bandhigaiah and matching with the DNA profile of the sample blood sent in item No. 1.

I have therefore considered the possibility of the male child Master Sachin S/o Ms. D M Rashmi, sample blood sent in item No. 2 is an offspring and biological son of Sri D B Vinod Kumar S/o Sri B Bandhigaiah, sample blood sent in item No.1".

14. When that being the fact nothing else is required to hold that petitioner is an offspring and biological son of respondent D B Vinod Kumar. Therefore, Trial Court has rightly referred the meaning of illegitimate child under Merriam Webster dictionary. The same is reproduced here below:

"As per Merriam Webster dictionary illegitimate in relation to a child

"a: not recognized as lawful offspring

b: born of parents not married to each other".

As per Merriam Webster dictionary illegitimate in relation to a child means: "born of parents not married to each other".

15. It is also important to extract portion of Section 125 of Cr.P.C. which denotes that:

"Section 125. Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain--

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or".

16. Therefore, Trial Court has rightly held that if the Court ignores to hold that respondent is liable to maintain the petitioner even if he is an illegitimate child, the very scope, object and purpose for which Section 125

of Cr.P.C. introduced by the legislature would be frustrated and becomes redundant.

17. Now, question here is mother of the petitioner is employed and able to maintain the petitioner. It has come in the evidence of petitioner that she is unemployed and she has no source of income. Though many questions were put to her to establish that she has source of income, nothing has been elicited before the Court to establish the same. There is admission that landlords at their village, take them for coolie work, but, she has denied the earning of Rs.200/- per day by doing coolie work. Even if it is considered that she is earning by doing coolie work, what is the income of respondent and if he has sufficient source of income, it is the responsibility of both the parents to look after their child according to their status in the society.

18. Hence, proceeded to verify the oral and documentary evidence available on record with regard to source of income of the respondent.

19. The Ex.P. 2 to 7 are the RTCs pertaining to the land bearing Sy.No.221/10A measuring 20 guntas, 124/3A measuring 12 guntas, 121/3 measuring 10 1/2 guntas, 18/2 measuring 21 guntas, 149/2A measuring 18 guntas, 23/5 measuring 15 guntas and these properties stand in the name of father of respondent. Admittedly, father of respondent is no more. However it was put to PW- 1 that father of the respondent has got two sons and a daughter. But PW- 1 has deposed that father of the respondent has got only two sons. Whatever it may be, it is the responsibility of respondent to show that they are 3 daughters or that properties are divided among them and particular property has been succeeded by him but nothing is before the Court and hence, it is presumed that respondent has sufficient agricultural income from the aforesaid lands. Apart from that, admittedly he is working as a lineman at Chamundeshwari Electricity Supply Corporation Ltd., Nanjangud and earning Rs.40,000/- pm and this evidence was led in the year 2021. Definitely there will

hike in the salary after lapse of 4 years. Therefore, it is clear that respondent is gainfully employed. On the other hand, mother of the petitioner has no source of income and if respondent neglects to maintain the petitioner, the whole future of the boy child will be spoiled.

20. Considering all these facts, the Trial Court has rightly ordered to grant maintenance of Rs.8,000/- pm along with educational expenses of Rs.30,000/- per year and the litigation expenses. Hence, I find no good reason to interfere with the order of the Trial Court. Therefore, Point No.1 is answered in the **affirmative** and Point No.2 is answered in the **negative**.

21. **POINT NO.3**: For the reasons stated above, I proceed to pass the following:

ORDER

The revision petition filed under Section 397 of Cr.P.C. is hereby dismissed.

Consequently, the order passed in

Crl.Mis.71/2018 dated 18.11.2023 by
learned Civil Judge & JMFC,
T.Narasipura is hereby confirmed.

Send back the Trial Court Record
along with copy of this order forthwith.

(Dictated to the tab, typed the same by the Stenographer Gr-I on Computer and
after corrections, pronounced by me in open Court on this the **2nd day of April,**
2026).

(USHARANI),
Principal District & Sessions Judge,
Mysuru.