

**IN THE COURT OF THE PRINCIPAL SENIOR
CIVIL JUDGE AND J.M.F.C., HUNSUR.**

Present: **G. DEEPA, B.A.L., LL.B.,**
Prl. Senior Civil Judge & J.M.F.C.,
Hunsur.

Dated, this the 8th day of March , 2018

CRL.MISC.47/2015

Petitioner: 1. Smt. Rathna,
W/o Raju,
32 years,
2. Kum. K.R. Lakshmi,
D/o Raju,
6 years,
2nd petitioner being minor,
represented by Natural guardian,
her mother,
Both are R/o Shivjyothinagar,
Hunsur.

(By Sri. B.A.S., Advocate)

V/s

Respondent: Sri. Raju S/o late Thimmegowda,
R/o 3943/11, Old B.M. Road,
Manjunatha Layout,
Hunsur.

(By Sri. S.N.K., Advocate)

**ORDERS ON PETITION FILED U/SEC.125 OF CRIMINAL
PROCEDURE CODE**

The petitioners have filed the above petition and sought for maintenance of Rs.20,000/- and Rs.15,00/- P.M., respectively to the 1st and the 2nd petitioners from the date of petition till their life time.

2. The facts in brief are that the 1st and the 2nd petitioners are mother and daughter respectively. The parents of the 1st petitioner are the residents of Thippalapura, Gavadagere Hobli, Hunsur Taluk. The respondent had approached them pretending himself to be a widower and has no issues and he is willing to marry their daughter, 1st petitioner. Accordingly, the parents of the 1st petitioner performed the marriage of the 1st petitioner with the respondent as per the Hindu rites and customs at Nimishamba Temple, Srirangapatna, Mysuru on 19.02.2007 by bearing all the expenses of Marriage. After the marriage, the 1st petitioner and the respondent started their marital life in the rented house at Shivajyothinagar, Hunsur and they have a baby girl of 6 years, i.e., the 2nd petitioner.

3. It is further case of the petitioners that the respondent has taken care of the petitioners for about 6 years

and later started to neglect them by visiting the house of the petitioners once in a fortnight. On questioning the same, the respondent started to ill-treat the petitioners and further failed to provide basic necessities of life to the petitioners. Later, the petitioner No.1 came to know that the respondent has an illicit relationship with a woman. On questioning the same, the respondent revealed that she is none other than his 1st wife, Rathna. Later, the 1st petitioner came to know that with an intention to marry this petitioner, the respondent has played fraud.

4. Though the 1st petitioner has tolerated all these things keeping in mind the future of the 2nd petitioner and herself, the respondent stopped to cohabit with the 1st petitioner. Accordingly, the 1st petitioner lodged a complaint at Hunsur Town Police station. On the complaint before the police, the respondent has undertaken to look after the petitioners by giving Rs.10,000/- P.M., to them and also to give 50% out of his retirement benefits by executing Oppige Patra on 18.12.2014. But, the respondent has failed to keep up the terms of the Oppige Patra.

5. The 1st petitioner is not in a position to maintain herself and her daughter and she has no independent source

of income. The respondent is a principal at Government Junior college, Saligrama and is having a salary of Rs.75,000/- to 80,000/- P.M. Apart from that the respondent has a site, garden land and a shop at Hosakannambadi village and is also getting income from it. Though the respondent know all these facts, the respondent is neglecting the petitioners. Hence, this petition and accordingly, sought to allow the petition.

6. In response to the notice of the petition, the respondent has appeared through his counsel of choice and filed objections by denying averments of the petition in its entirety and contended that the respondent and his family members are cultured and are living without any allegations. With great difficulty, the respondent has completed his Master decree and married one K.T. Rathna, a resident of Kattepura, Arakalagud Taluk, Hassan on 26.06.1980. Later he got appointment and is working with honest and is now working as a Principal at Junior college, Saligrama. The wife of the respondent had purchased a land at Tharikal Kaval in 1997. Since then, the respondent is with his wife and is traveling from the said place to the place of his transfer. The wife of the respondent engaged the service of one Akkayamma to help in the kitchen. On the influence of the said lady, the wife of the respondent appointed the 1st petitioner, who is the sister of

the cook to manage the lands. Whereas, the 1st petitioner by taking the advantage of the name of the wife of the respondent started to pretend herself as the wife of the respondent and also collected the wedding photos of the respondent and manipulated the same and the gundas of the 1st petitioner fraudulently took the signature of this respondent on the document on 18.12.2014 and also demanding Rs.12,00,000/- to return the photos of the respondent.

7. On his refusal to pay the amount, the respondent was assaulted by the gundas severely on 16.02.2015. Accordingly, he gave complaint to the police. The matter came to the knowledge of his friends and relatives. Since then, the respondent is suffering mental and physical agony. Hence, sought for dismissal of the petition with exemplary cost.

8. In order to prove the averments of the petition, the petitioner No.1 has examined herself as PW.1 and got marked 5 documents as Ex.P.1 to P.5 and closed the evidence. Despite affording sufficient opportunities also, the respondent has neither cross-examined the petitioner nor adduced evidence to substantiate his contention. Accordingly, heard

the arguments of the petitioner. Respondent did not canvass arguments. Perused the material on record.

9. The points that arise for my consideration are:

1. Whether the petitioners are entitled for the reliefs claimed?

2. What Order?

10. My findings on the above Points are:

Point No.1: Partly in the Affirmative

Point No.2: As per final order

for the following:

R E A S O N S

11. Point No.1 : It is the specific case of the petitioners that they are the legally wedded wife and legitimate daughter of the respondent, who is a Principal at Government Junior College, Saligrama and the marriage of the 1st petitioner with the respondent had taken place on 19.02.2007 at Sri. Nimishamba Temple, Srirangapatna and due to their marital relationship, they have a baby girl, who is the 2nd petitioner and now, with the illicit relationship of a women, who is alleged as the 1st wife, the respondent is neglecting the

petitioners though he has sufficient income. It is also the case of the 1st petitioner that when the respondent brought the marriage proposal, he pretended himself to be a widower and by playing fraud, he got married the 1st petitioner.

12. In order to substantiate the same, the 1st petitioner has examined herself as PW.1 by deposing the averments of the petition and relied upon 5 documents. Though the respondent has denied the averments of the petitioner, in its entirety except his avocation, neither ventured to cross-examine the PW.1 nor adduced evidence to substantiate his defence. Hence, the evidence of PW.1 remained unchallenged.

13. Further, the documents relied upon by the petitioners corroborate the contention of the petitioners and moreover, the Ex.P.4 and 5 have come into existence at an undisputed point of time. Apart from that, though the respondent has denied the alleged marital relationship of the 1st petitioner with him, not substantiated his contention with cogent and convincing evidence. Hence, the contentions of the respondent remained as plea only. That apart, in order to have a relief under the instant provision, no strict proof of marriage is necessary. However, the prima facie material on record reveals that the 1st petitioner is the wife of the

respondent and the averments of the petition and evidence of the 1st petitioner reveal that she is not in a position to maintain herself and her daughter. On the other hand, the fact that the respondent is economically sound is not denied by the respondent. Hence, it is the bounden duty of the respondent / husband to maintain his wife and daughter. Accordingly, keeping in mind the status of the parties and these hard days into consideration, I deem it proper to award monthly maintenance of Rs.6,000/- P.M., to the 1st petitioner during her lifetime and Rs.4,000/- P.M., to the 2nd petitioner till her marriage, which will serve justice at both ends. Accordingly, in the light of the above discussion, the **point No.1** is answered **partly in the affirmative**.

14. **Point No.2:** For the aforesaid findings, I proceed to pass the following:

O R D E R

The petition filed U/S 125 of Cr.P.C. by the petitioners is hereby allowed in part.

Accordingly, the respondent is directed to pay monthly maintenance of Rs.6,000/- and

Rs.4,000/- to the 1st and 2nd petitioners respectively from the date of the petition till her life to the 1st petitioner and till the marriage of the 2nd petitioner.

(Dictated to the Stenographer, transcribed by her on computer, revised, corrected and then pronounced by me in the open Court on this the 8th day of March 2018)

(G. DEEPA)

Prl. Senior Civil Judge & J.M.F.C.,
Hunsur.

ANNEXURE

List of witnesses examined by the Petitioners:

PW.1 : Rathna

List of documents marked by the Petitioners:

Ex.P.1 : Copy of legal notice
Ex.P.2 : Postal receipt
Ex.P.3 : Postal acknowledgement
Ex.P.4 : Copy of Adhar card
Ex.P.5 : Copy of I.D. card

List of witnesses examined by the respondent :

Nil

List of documents marked by the respondent:

Nil

(G. DEEPA)

Prl. Senior Civil Judge & J.M.F.C.,
Hunsur.

