

KAMS510019662025



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC
NANJANAGUDU**

PRESENT

Sri. Sathisha K.G., B.A.,LL.B.

Principal Civil Judge & JMFC., Nanjanagudu

Dated: 7th day of April, 2026

Criminal Miscellaneous Petition No.744/2025

- APPLICANTS ::** 1) Smt. Rajamma alias Rajeshwari,
Aged about 35 years,
W/o Jayashankara alias Shankar,
S/o Ramanna.
- 2) Master. Rakesh S/o Shankar,
Aged about 14 years.

Since Minor represented by his natural
guardian Mother i.e., 1st petitioner
Smt. Rajamma alias Rajeshwari.

Both are R/at Kurahatti Village and Post,
Kasaba Hobli, Nanjanagudu Taluk.

(By Sri. S.S. Jayaramu. Advocate)

- V/s -

- OPPONENT ::** Sri. Jayashankara alias Shankar,
Aged about 45 years,
S/o Late Sannappa,
R/at Kurahatti Village and Post,
Kasaba Hobli, Nanjanagudu Taluk.
- (Exparte)

ORDER ON MAIN PETITION FILED U/S.144 OF BNSS.

Right to life under Article 21 of the Constitution of India means “right to livelihood”. A woman cannot be denied of such right being dragged out of her matrimonial home. She has a right to sustain her life and it must be with dignity. A person cannot be allowed to live a life like an animal and cannot thrown away from grace and roam for her basic necessities somewhere else. She is entitled to lead a life in the similar manner as she would have lived in the house of her husband. This is where status comes into play that is where the obligations of the husband, in case of a wife, become a prominent one and she cannot be allowed to live a life of beggar and destitute on the scrap heap of society and the very concept of sustenance and maintenance generates there and there is a duty cast upon the husband to look after his wife and children.

2. The petitioners have filed the instant case/proceeding under section 144 of BNSS against the opposite party Sri. Jayashankara @ Shankara claiming maintenance allowance.

3. Petitioners case in brief:-

The brief fact of the petitioners case is that, the 1st petitioner is the legally married wife of the opposite party. The marriage between them was performed on 29.08.2008 as per the Hindu Rites and

Customs at Beereshwara Swamy Temple at Siddegowdanahundi, Hullahalli Hobli, Nanjanagudu Taluk. After marriage, both of them lived married life happily 5-6 years and out of their wedlock the petitioner No.2 was born to them. After passage of some time, she came to know about the behaviour of respondent. The respondent was addicted of consuming liquor and whenever she obstructs him not to do such activities, applicant used to harass and torture her. The respondent used to come home in inebriated condition and used to harass the 1st petitioner both physically and mentally and beat the 1st petitioner. Then he driven out the petitioners from his house. Since then, the respondent had not enquired about the welfare of petitioners. The respondent did not provide any maintenance to the petitioners and also did not come to see the petitioners. The respondent is working as a Security Supervisor at Mysore Factory and getting income of Rs.20,000-25,000/- per month. Thus the respondent is having every capacity to pay the maintenance to the petitioners. That the respondent did not arrange for any maintenance for the petitioners and 1st petitioner has no source of income and she has been suffering from financial hardship. Hence, this petition.

4. After receipt of notice the respondent did not appear before the court and he did not contest the case by filing written objection. Hence, the case proceeded exparte.

5. Based on the above pleading of the petitioners, the points which arises for determination of the questions in controversy are:-

1. Whether the 1st Petitioner is the wife of the respondent and she is unable to maintain herself and children?
2. Whether the 1st Petitioner has refused to live with the respondent without just ground?
3. Whether the respondent/Opposite Party having sufficient means has refused or neglected to provide maintenance to the Petitioners?
4. Whether the Petitioners are entitled to monthly maintenance allowance from the respondent as prayed for and if so, what should be the proper amount?
5. What order?

6. The 1st petitioner adduced evidence and examined herself as PW.1 and got marked documents at Ex.P1 and 2, whereas the opposite party/respondent remained absent and did not adduce any evidence. I have heard the argument advanced by the learned advocate for the petitioners. My findings to the above points are as under:-

- Point No.1 : In the Affirmative
Point No.2 : In the Affirmative
Point No.3 : In the Affirmative
Point No.4 : In the Affirmative
Point No.5 : As per final order for the following:-

REASONS

7. **POINT NO. 1 TO 4:-** I have taken all these points together for the sake of convenience. The Learned Counsel for the Petitioners had submitted that the petitioners are legally well-entitled to the relief, as prayed for under Section 144 of BNSS., as the respondent had remained absent in-spite of being given due chance to rebut the petitioners claim and that the mandate under Section 144 of BNSS. is aimed at preventing vagrancy and destitution in our society. This court find it fit to go through the evidence adduced by the petitioners before arriving at any final conclusion.

8. The evidence adduced by the 1st petitioner is a repetition of her main petition. It was emphasized by the 1st petitioner during her testimony has stated that the respondent used to come home in inebriated condition and used to harass the 1st petitioner both physically and mentally. She further deposed that the respondent did not provide any maintenance and also did not come to see her and her child. That the respondent did not arrange for any maintenance and she has no source of income and she has been suffering from financial hardship.

9. So far as allegation of the first party for her living separately from her husband is concerned as provided U/s.144(4) of BNSS((erstwhile Section 125(4) of Cr.P.C) that no wife is entitled to

get maintenance u/s 144 of BNSS((erstwhile Section 125 of the CrPC). if she falls within such provision of law. The evidence of PW.1 discloses that, the opposite party started to torture the first party and shown no interest to live together with her.

10. The provisions of Chapter X of BNSS(erstwhile Chapter IX of CrPC) is a measure of social justice. The provisions are to be liberally construed as the primary object is to give social justice to women and children and to prevent destitution and vagrancy by compelling those who can support those who are unable to support themselves. These provisions provide a speedy remedy to those who are in distress.

11. The opposite party did not contest the instant proceeding inspite of having knowledge of the same which indicates the fact that he is least concerned as to how his wife and child have been maintaining herself and child without his support. His neglect towards her and child is indicative from the fact that since the time of her leaving of the matrimonial home, he neither tried to contact nor enquired about her and child. It is also clear from her evidence that no attempt was made by him for reconciliation or to bring her back to his house. It appears that he has abandoned her and child. The evidence and contention of the 1st petitioner remained uncontroverted as the opposite party/respondent having remained

absent could not avail the opportunity to cross examine the PW.1. Presumption can be drawn in favour of the petitioners as per section 119(g) of BSA(erstwhile section 114 (g) of the Indian Evidence Act) and as such there is nothing to disbelieve the version of the 1st petitioner.

12. The section 144(1) of BNSS((erstwhile Section 125(1) of the CrPC) provided that it is necessary to look into the interest of the wife and the minor children if they are not maintained properly by way of negligence or refusal on the part of the husband or father in spite of he is an able person to do so.

13. It is not in dispute between parties that, the 1st petitioner is a house wife and as such, naturally, she has no source of income. In view of that, it can easily be suggested that the petitioners are totally dependent on the income of the respondent.

14. In 2008, (2) SCC, 316; Chaturbhuji vs. Sita Bai, it was observed that : maintenance proceeding u/s 125 CrPC, the object is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who are unable to themselves and who have a moral claim to support – Words and Phrases- “ Unable to maintain herself ” - Meaning of – Means inability of wife to maintain herself in the way she was used to in the place of her husband.

15. In 1999 (6) SCC, 326; Rajathi vs. C. Ganesan, the Honb'le Supreme Court held that u/s 125 CrPC. Expression “unable to maintain herself” covers means available to the wife, while she was living with her husband and not after her desertion, burden lies on the husband to prove that he has no sufficient means to discharge his obligation or he did not neglect or refuse to maintain her, statement by wife that she was unable to maintain herself, held, would be enough – It would be for the husband to prove otherwise.

16. The PW.1 in the instant case, categorically, stated that she was unable to maintain herself as she was admittedly, a house wife. This fact clearly indicates that she was unable to maintain herself and needed financial help of her husband. The respondent could not establish anything to counter the above statement of the 1st petitioner to discharge his burden that he has not refused or neglect to maintain the petitioners. Therefore, having taken into consideration above law laid down, it is abundantly disclosed here that there was negligence or refusal of the respondent to maintain the petitioners.

17. The opposite party/respondent is an able bodied person and he has the capacity to earn. Marriage between the 1st petitioner and opposite party itself proves the factum that the opposite party had undertaken to maintain the petitioners.

18. The 1st petitioner has been able to prove that she is the legally married wife of the opposite party, that the opposite party, inspite of having sufficient means, refused or neglected to maintain her, that she has no income of her own, that she is unable to maintain herself and child and that she is entitled to maintenance from her husband.

19. Once it is decided that the petitioners are entitled to maintenance, the next relevant question which is to be decided by the court is the 'quantum of maintenance'. This court does not have any concrete proof, regarding the exact earning of her husband. It can only be inferred that the opposite party is an able bodied man with earning capacity. If a man is healthy and able-bodied he must be held to possess the means to support his wife, children and parents. Even a day labourer earns approximately rupees Twelve thousand per month.

20. The word "maintenance", although not statutorily defined, undoubtedly includes food, clothing, shelter, medical and other expenses related to normal pursuit of life. Sustenance does not mean a mere survival and the woman should be able to live with dignity.

21. In her evidence, there is nothing to indicate the standard of her living she used to enjoy while she was with her

husband before being driven out. Further, it is seen that PW-1 testified that respondent is financially sound even though doubts persist as to his actual income capacity. As such, it points out that the respondent has sufficient means to provide for, yet he has neglected and refused to provide the same to his neglected wife and three minor children. It is a solemn duty of an able bodied man to provide for the necessities of life to his dependents, more so one growing minor child having good prospects as future responsible citizen of the country.

22. The present living standard of the opposite party is not also indicated in her evidence. So far as quantum of maintenance is concerned, I have considered the daily price rise and present market scenario. I have considered the fact that minor child is residing with the 1st petitioner and she has to bear his expenses too. Considering all, this court arrived at the conclusion that maintenance allowance of Rs.6,000/- (Rupees Six Thousand only) per month to the petitioners shall meet the ends of justice. While calculating the amount ordered for such maintenance allowance, I have taken into consideration aspects involving the economic background of the parties, rising costs of living and the future requirements of the minor child. Accordingly Point No.1 to 4 are answered in the **Affirmative**.

23. **POINT NO.5:-** In the light of above discussion, this

court proceed to pass the following:-

ORDER

The petition filed by the petitioners is allowed. The opposite party/respondent is directed to pay Rs.2,000/- (Rupees Two Thousand only) to the 1st petitioner and Rs.4,000/- (Rupees Four Thousand only) to the petitioner No.2 i.e. Rs.6,000/- (Rupees Six Thousand Only) in total per month as maintenance allowance w.e.f. the date of making the application.

It is further directed that the said amount shall be paid by the respondent regularly within first ten days of each succeeding English Calendar month.

Let a copy of this final order be given to the petitioners free of cost.

(Dictated to the Stenographer directly on computer, typed by him, the same is corrected, revised, signed and then pronounced by me in the open Court, on this the 7th day of April, 2026)

(SATHISHA K.G.)
Principal Civil Judge & JMFC,
Nanjanagudu.

ANNEXURE

List of witnesses examined on behalf Applicant:

PW.1 : Smt. Rajamma.

List of documents exhibited on behalf of Applicant:

Ex.P1 : Marriage Invitation card.
Ex.P2 : Demand register extract.

-: 12 :-

List of witnesses examined on behalf of Opponent:

- N I L -

List of documents exhibited on behalf of Opponent:

- N I L -

(SATHISHA K.G.)
Principal Civil Judge & JMFC,
Nanjanagudu.