

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC.,
MANVI.

Present : Sri. Kanchi Mayanna Goutam, B.A.L.,LL.M.,
Senior Civil Judge & JMFC., Manvi.

Dated : This the 1st day of July, 2026.

Crl.Mis. No. 8/2024

Petitioner : Husman Basha S/o Tane Sab,
Age 55 years, R/o Kallur,
Tq., Sirwar, Dist., Raichur.

(Represented by Zarina Banu, Adv.,)

V/S

Respondent : Abdul S/o Husman Basha,
Age 31 years, Occ: Mechanic,
R/o Kallur, Tq., Sirwar, Dist., Raichur.

(Represented by Sri. M Mallesh Machanur, Adv.,)

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ORDER

The present petition is filed by the petitioner under section 125 of Cr.P.C. seeking direction against the respondent to pay monthly maintenance of Rs.20,000/-.

2. The brief facts of the petitioner's case are as under:

The petitioner is the father of the respondent. The petitioner married with two wives and both the wives and children neglected the petitioner. It is alleged that the petitioner being aged person suffering old age related ailments and unable to maintain himself by earning and also unable to look after himself. The other children of the petitioner are daughters and minors. The present respondent being the major son working in a garage earning Rs.70,000/- per month.

3. It is alleged that the respondent and his wives and children are not taking care of the petitioner. The respondent having sufficient income and he is economically stable. It is alleged that the petitioner has no source of income and unable to maintain himself. Hence, prays to allow the petition by granting the maintenance as prayed in the petition.

4. After filing of the petition, the notice was issued to the respondent, which is duly served on the respondent. The respondent appeared through his counsel and even after sufficient opportunity has not filed any objections to the petition.

5. To prove the contention urged in the petition, the petitioner examined himself as PW 1 and marked the document as Ex.P1 to 3. On the other hand, the respondent not chosen to file objections and thereby cross-examine the PW1/ petitioner or to adduce any evidence. Hence, by taking the cross-examination of PW1 as nil the case is posted for arguments.

6. Heard the counsels for both parties and perused the documents.

7. The points that arise for my consideration are:

1. Whether the petitioner proves that he is unable to maintain himself?

2. Whether the petitioner proves that the respondent being the son neglected and refused to maintain the petitioner?

3. Whether the petitioner proves that the respondent has got sufficient means to maintain the petitioner?

4. Whether the petitioner is entitled for the monthly maintenance at the rate of Rs.20,000/- per month from the respondent?

5. What order ?

8. My answer 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 : Partly affirmative.

Point No.5 : As per final order
for the following reasons.

REASONS

9. **Point No.1 to 3 :-** For the sake of convenience and in order to avoid repetition of facts and evidence, this court has taken these points together as they are inter-connected. Because what the court is concerned about is when the petitioner is unable to maintain himself, whether the respondent in spite of sufficient means has failed to maintain the petitioner. Hence, proof of failure to maintain without proving that the respondent has sufficient means would not entitle the relief and similarly failure to prove sufficient means without proving that the respondent has failed to maintain himself.

10. The present petition is one under Section 125 of Criminal Procedure Code, seeking maintenance from the respondent. In a petition for maintenance, the essential conditions to be satisfied by a party claiming maintenance is :

- a) Whether the petitioner is the father of the respondent?
- b) Whether the petitioner is unable to maintain himself?
- C) Whether the respondent has sufficient means?
- c) Despite of sufficient means the respondent being the son has neglected or refused to maintain his father who is unable to maintain herself.?

11. It is pertinent to note that the relationship with the petitioner is not disputed by the respondent. The petitioner alleges that the respondent is his son. The petitioner is the father and the respondent is the son of the petitioner. The respondent even though appeared through his counsel, not chosen to file any objections by denying the relationship or the contentions urged in the petition by the petitioner. As such, in lieu of absence of the denial, it is concluded that, there is no dispute in respect of the relationship and the status of the petitioner as the father of the respondent.

POINT OF UNABLE TO MAINTAIN:

12. The sine quo non factor for a person to maintain a petition under Section 125 of Cr.P.C is that person must establish initially that he is unable to maintain himself and he is neglected by the respondent. In this regard the petitioner examined himself as PW1 and filed his evidence affidavit in lieu of his chief examination and he stated on oath that he being aged about 55 years he is suffering with age related ailments and unable to do any coolie work also. The said statement made on oath by the petitioner in his evidence affidavit is neither disputed nor tested with trail by cross-examining the petitioner. The said statement made by the PW1 on oath stands undisputed and unchallenged as the respondent does not chosen to cross-examine the PW1 by filing objections to the main petition.

13. Further the petitioner also produced Ex.P1 Medical Prescriptions, Ex.P2 Lab reports and Ex.P3 Hospital records to show that he is suffering with age related ailments. These documents are also not disputed by the respondent. Thereby in conclusion in the absence of denial it can be concluded the petitioner being the father aged about 55 years suffering with age related ailments is unable to maintain himself.

POINT OF SUFFICIENT MEANS:

14. It would be necessary to note that the petitioner has deposed on oath that the respondent is running own garage and earning Rs.70,000/- per month. The petitioner also filed the assets and liability statements wherein it discloses that there is no income for the petitioner. On the other hand the respondent has not filed any assets and liability statement by disclosing the true fact of his income. The respondent also not denied the allegation

of running a own garage and earning of Rs.70,000/- per month as alleged by the petitioner. The respondent is aged about 31 years which itself shows that he has sufficient means of income to maintain himself and also his parents.

15. This brings the discussion to the question as to whether the respondent has intentionally neglected to maintain the petitioner. In this regard the PW 1 stated on oath that the respondent son and his mother being the second wife of the petitioner has neglected the respondent and they are residing separately. The respondent being the son not made out any grounds before this Court by showing he has not neglected his father and he is helping his father for his daily needs. The petitioner alleges that he is residing separately. In this regard the evidence deposed by the petitioner on oath as PW 1 is not cross-examined by the respondent and nothing been elicited to disprove the contentions urged by the petitioner.

16. In view of the fact that the relationship is not in dispute and the petitioner has successfully proved that the respondent has sufficient means, as regards the neglect, the PW 1 has stated on oath that the petitioner is now residing separately and the respondent has neither enquired about his well being and has not paid any amount towards his maintenance. The respondent not adduced any evidence to show that he is taking good care of the petitioner father. It is the onus of the respondent to prove that he has taken the best effort to take care of the petitioner father. No such effort is made by the respondent to discharge his onus. For the foregoing reasons, this court finds no hesitation in holding the point No.1 to 3 in the affirmative.

17. **Point No. 4:-** Now when this court ventures to analyze as to need of the petitioner, in this regard the PW 1 stated that the petitioner is old and residing separately and has no

source of income. But, the petitioner has not even stated as to for what purpose he needs Rs.20,000/- per month as maintenance. It is necessary to understand that **want** of the petitioner is one thing and **need** is another. This court can only award keeping in mind the **need** of the petitioner and not his **wants**.

18. As regards his needs there is no evidence before this court, either oral or documentary. The petitioner has produced Ex.P1 to 3 Medical documents. These Ex.P1 to 3 documents are prior to the filing of the petition. But, it is clear that the petitioner is aged and has age related ailments. The Ex.P1 to 3 supports the contentions of the petitioner in respect of his age related ailments, but there is no clear picture before this court as to expenditures of the petitioner as neither the petitioner himself nor the respondent has stated anything about the same. But, this court needs to award the maintenance by considering the present

cost of living and also considering the lack of evidence in mind and also keeping in mind that the respondent's financial capability and other responsibilities. It is also need to be considered that the petitioner has other children also

19. The endeavor of a social legislation is to enable the parents to lead the same standard of life as he had been under the care of his son. Here the respondent is shown to be running own garage. Even this aspect will have to be borne in mind while awarding maintenance. So considering all the surrounding circumstances along with the capacity of the respondent to pay, in comparison with the present cost of living this court proceeds to hold that the petitioner is entitled to maintenance of Rs.2,800/- per month, and proceed to hold point No. 4 as partly affirmative.

20. **Point No. 5** : There is no interim order of maintenance is passed by awarding the interim maintenance. Hence, by considering the facts and circumstances of the case and relationship of father and son between the petitioner and respondent, this Court deems fit to grant the maintenance from the date of filing of this petition. In view of the above findings and reasoning on point No. 1 to 4, this Court proceed to pass the following order.

ORDER

The petition filed by the petitioner under section 125 of Cr.P.C. is hereby partly allowed.

The petitioner is entitled for monthly maintenance of Rs. 2,800/- from the respondent from the date of filing of this petition.

Office to supply the free copy of this
order to the petitioner forthwith.

(Dictated to the Stenographer, typed by her directly through computer,
corrected by me and then pronounced in the open court on this the 1st day of
the July 2026)

(Kanchi Mayanna Goutam)
Senior Civil Judge & JMFC.,
Manvi.

A N N E X U R E

List of witnesses examined for the petitioner:

PW 1 : Husman Basha

List of witnesses examined for the respondent:

- NIL -

List of documents marked for the petitioner:

Ex.P1 : Medical prescription

Ex.P2 : Lab reports

Ex.P3 : Medical documents

List of documents marked for the respondent :

- NIL -

(Kanchi Mayanna Goutam)
Senior Civil Judge & JMFC.,
Manvi.