

KASM410025892023



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE &
J.M.F.C., THIRTHAHALLI**

: Present :

Smt. Geethamani **B.A., LL.B.,**
C/c Prl. Civil Judge & J.M.F.C.,
Thirthahalli.

Dated this the 10th day of August 2026

Crl.Misc.223/2023

PETITIONERS

1. Sumithra Y.N.,
W/o Kirana,
aged about 43 years,
2. Nandan,
S/o Kirana
aged about 8 years,
2nd petitioner is Minor under
the care and custody of
mother represented by
the 1st petitioner both are
R/o Gadihonne, Yogimalali
Village, Demlapura Post,
Mandagadde Hobli,
Thirthahalli Taluk.

(By Sri. T.L.M., Advocate)

-V/S-

RESPONDENT:

Kirana,
S/o Chennappa,
aged about 45 years,

Shilpi worker,
R/o Halemugulugere,
Hosaguddanakoppa Post,
Hosur Hobli,
Shikaripura Taluk.

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

ORDERS

The petitioners have filed this petition u/sec.125 of Cr.P.C seeking maintenance from the respondent.

2. The brief facts of the case of petitioners is as under :-

Petitioner No.1 is the wife of the Respondent and Petitioner No.2 is their minor son, who is under the care and custody of Petitioner No.1. Their marriage was solemnized on 22.02.2013 at Yogimalali Village, Thirthahalli Taluk, according to Hindu customs. It is alleged that the Respondent received cash and gold from the parents of Petitioner No.1 at the time of marriage as dowry. After the marriage, the Petitioners resided with the Respondent, initially at the parental house of Petitioner No.1 and subsequently at the Respondent's

house at Shikaripura. During their matrimonial life, the Respondent allegedly subjected Petitioner No.1 to physical and mental cruelty by assaulting and abusing her in filthy language. He is alleged to be addicted to alcohol, to have continuously harassed Petitioner No.1 and to have demanded money from her and her family.

3. It is further pleaded that, the parents, relatives and elders conducted several panchayats and advised the Respondent to change his behaviour. However, the Respondent allegedly continued his drinking habit, harassment and ill-treatment. He also failed to provide the Petitioners with proper food, medical care, shelter and other necessities of life. In January 2018, the Petitioners were allegedly driven out of the Respondent's house. Consequently, Petitioner No.1 returned to her mother's house at Yogimalali Village along with Petitioner No.2. Despite waiting for the Respondent to take them back and maintain them, he allegedly failed and neglected to do so.

4. It is further pleaded that, the mother of Petitioner No.1 is aged and has no sufficient means to support the Petitioners. The expenses relating to the delivery and medical treatment of Petitioner No.2 were borne by her. The Petitioners have no sufficient independent source of income for their livelihood.

5. It is further pleaded that, the Respondent is stated to be a skilled Shilpi/sculptor engaged in temple statue work, having sufficient earning capacity and house property, and earning more than Rs.10 lakh per annum. Despite having sufficient means, he has allegedly neglected and refused to maintain the Petitioners. Therefore, the Petitioners seek maintenance of Rs.10,000/- per month each. Hence, they have filed this petition.

6. After service of notice, the respondent has appeared before this court and filed his objections.

7. Gist of the objection filed by the respondent is as follows:

The respondent denied all the allegations in the petition except the marital relationship between the petitioner no.1 and respondent. He contended that, The respondent submits that, being from a poor family, the petitioners voluntarily incurred the entire marriage expenses without demanding or receiving any dowry, believing that the respondent would maintain the Petitioner No.1 and his family properly. After the marriage, the respondent treated Petitioner No.1 with love and care and fulfilled her needs. The respondent is also responsible for maintaining his aged parents, who suffer from serious age-related ailments, including paralysis, resulting in substantial monthly medical expenses. However, within three months of the marriage, petitioner No.1 allegedly began quarrelling with the respondent and his parents without sufficient reason, using abusive language, assaulting them, refusing to perform household duties, and frequently engaging in mobile phone conversations and messaging. She also neglected petitioner No.2 and failed to provide proper

care and affection to the child.

8. It is further submits that, petitioner No.1 repeatedly insisted that the respondent establish a separate residence away from his aged parents. When the respondent refused, she allegedly assaulted him and his parents and left the matrimonial home on 26.01.2018. When the respondent went to her parental home on 08.02.2018 and requested her to return and resume matrimonial life, her relatives allegedly assaulted and threatened him with serious consequences. Despite repeated requests, Petitioner No.1 refused to return to the matrimonial home. The respondent is willing to resume a peaceful matrimonial life with the Petitioners but, due to his limited income from daily-wage work and the responsibility of maintaining his aged parents, he is unable to pay the maintenance amount claimed by the Petitioners. Hence prayed for dismissal of the present petition.

9. In order to prove the case, petitioner No.1 examined herself as Pw1 and got exhibited 7 documents

which are marked as Ex.P1 to Ex.P7. On the other hand, the respondent examined himself as Rw1, but no documents were marked on his behalf.

10. I have heard the arguments submitted by the learned counsels for the petitioners and respondent. Perused the materials placed on record.

11. The following points would arise for my consideration:

1. Whether the petitioners prove that, the respondent without any cause neglected and refused to maintain them?

2. Whether the petitioners prove that the respondent has got sufficient source of income and they are unable to maintain themselves?

3. Whether the petitioners are entitled to the relief as prayed in the petition?

4. What order?

12. My answer on 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

13. POINTS No.1 to 3:- Since these 3 points are inter-linked to each other, they are taken together for common discussion in order to avoid the repetition of facts and evidence.

14. In the case on hand the relationship between the petitioners and respondent regarding dispute. Both parties are admitted that, their marriage was solemnized on 22.02.2013 at Yogimalali Village, Thirthahali Taluk as per the Hindu Customs. There is a allegation by the petitioner against the respondent at the time of marriage the respondent had received cash and dowry from the parents of the 1st petitioner as dowry. But, this fact is not proved by the petitioner no.1 by examining any independent witness or eye witness or she did not lodged any complaint to the police regarding dowry. It is an undisputed fact that, due to their wedlock the 2nd

petitioner namely Nandan was born. Regarding ill treatment the petitioner has not proved any proof like medical records, photos of injuries, saved text messages, voice recordings and notes with date and time. There was also need to report to acts of the respondent to the police, hospital or a local support, group as soon as they happen. The medical document is very crucial documents to get a medical legal certificate immediately to documents physical harm. Regarding bad habits of drinking alcohol is also not proved by the petitioner. Regarding demand of dowry no documentary evidence is produced by the petitioner no.1. To prove physical and mental harassment to collect, digital, medical, and witness evidence maintain a detail written law of every incident and report the detail a immediately to the local police, work place, internal committee, or other relevant legal authorities. Therefore, I could not believe the version of the petitioner no.1. Since the respondent had denied all the averments made in the plaint, it was the petitioners prove the facts by cogent and convincing

evidence.

15. It is well established principle of law that, the party claiming the maintenance has to prove that the respondent having sufficient source of income has willfully neglected to maintain the petitioners who are unable to maintain themselves. With this background, I have perused the evidence available on the record.

16. The petitioners in order to prove their case, Petitioner No.1 got examined herself as Pw1 and she has filed affidavit in lieu of examination in chief by reiterating the entire petition averments. Therefore, instead of discussing the examination in chief of Pw1, let me discuss the documents produced by the Pw1.

17. Pw1 has produced her notarized copy of adhar card and voter card, which are marked as Ex.P.1 and Ex.P.2. Further PW.1 has produced birth certificate of her son, which is marked as Ex.P.3. Ex.P.4 is the copy of the adhar card of her son. Further she has produced marriage invitation card of her and respondent, which is

marked as Ex.P.5. Further she has produced study certificate of Nandan, which is marked as Ex.P.6. It is also clearly establishes that, the father of the petitioner no.2 is the Kiran, who is respondent. Ex.P.7 is the cash paid bills for books ,school uniforms etc. All these documents are not disputed by the respondent.

18. In order to deny the case of the petitioners, the learned counsel for the respondent has cross-examined the Pw1. During the cross-examination she deposed that, she did not have any documents to prove that, she was led marital life with the respondent for a period of 4 years and also she did not give any complaint before the police regarding consuming alcohol by the respondent and also given threaten to the petitioner no.1. Further she has admitted that, she has not produced any document to show that, the respondent is having income of Rs.1,00,000/- per year. It is very crucial admission made by the Pw.1 is that, the lands stands in the name of the parents of respondent and she does know the

survey number and other allegation are denied by the petitioner.

19. On the other hand, the respondent stepped into the witness box and filed affidavits in lieu of his chief examination. But, in spite of sufficient opportunities had been given to her, but she did not stepped into the witness box and tender for cross-examination.

20. In India, married women have the right to seek maintenance under sec.125 of Cr.P.C., requires a husband to support his wife. The Hon'ble Supreme Court of India Bhuvana Mohan Singh v/s Meens and other (2014) has held that, Sec.125 of Cr.P.C. conceived alleviate the agony, anguish and financial suffering of a women who has left her matrimonial home for the reasons set forth in the provision. So, that the court can make appropriate arrangements for her and her children if they are with her. She has a legal right to conduct her life in the same manner as she would have in her

husband's home. In *Neha Thyagi v/s Lieutenant colonel Deepak Thyagi* (2021) it is held by the Hon'ble Supreme Court of India " a fathers duty and responsibility to keep his child until they reach the age of majority cannot be exclusive. It is also undeniable that the child has a right to be cared for in accordance with his father's position. In this case on hand admittedly, the petitioner is residing in her parental house from the past several year. Therefore, it is a duty of the father to maintain to his children and his wife. Since, the petitioner has not proved the sole income of the respondent and by carefully perusal of documentary evidence as well as oral evidence of the petitioner in my opinion is that, the petitioner no.1 has not successfully proved neglect and refusal of the petitioners by the respondent as well as source of income of Rs.1 lakh per year. **Hence, I answer point No.1 to No.3 in Partly affirmative.**

21. POINT NO.4: In view of my findings on points No.1 to 3, the petitioners have been able to prove that

the respondent is having sufficient means and neglect to maintain them who are unable to maintain them. Hence, the petitioners are entitled to receive maintenance from the respondent. Accordingly, I proceed to pass the following:

ORDER

The petition filed by the petitioners U/Sec.125 of Cr.P.C., is hereby partly allowed with cost.

The petitioner No.1 is entitle for maintenance of Rs.5,000/- and petitioner No.2 is entitle for maintenance of Rs.2,500/- per month from the date of this petition.

Petitioner No.2 is entitled for the maintenance till he is able to earn substantial income.

(Dictated to Stenographer directly on to the computer, and typed by her, corrected by me and then pronounced it in open court this the 10th day of August, 2026)

(Smt. Geethamani)
C/c Prl. Civil Judge & J.M.F.C.
Thirthahalli

ANNEXURE1. Witness examined for the petitioners:-

Pw1 : Sumithra Y.N.

2. Documents marked for the petitioners:

Ex.P1 : Notarized copy of Adhar card Pw.1

Ex.P2 : Notarized copy of voter card Pw.1

Ex.P3 : Notarized copy of birth certificate

Ex.P4 : Notarized copy of adhar card of
petitioner no.2

Ex.P5 : Marriage invitation card

Ex.P6 : Study certificate of Petitioner no.2

Ex.P7 : Cash paid bills

3. Witnesses examined for respondent:

Rw 1 : Kirana

4. Documents marked for the respondent:

-NIL-

(Smt. Geethamani)
C/c Prl. Civil Judge & J.M.F.C.
Thirthahalli

Orders pronounced in the open court through VC vide separate orders

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(Smt. Geethamani)
C/c Prl. Civil Judge & J.M.F.C.
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