

KASM620022692022



**IN THE COURT OF PRINCIPAL CIVIL
JUDGE AND JMFC, SAGAR AT: SAGAR**

Present : Sri.Shrishail.B.Bagadi.

B.Com.LL.B(Spl)

Principal Civil Judge and JMFC, Sagar.

Dated this the 29th Day of July 2024

Criminal Miscellaneous Petition No.86/2022

Petitioners No.1. Smt.Sandhya W/o
Vishwadeeptha,
Aged about 32 Years,

2. Kum.Samvida D/o Vishwadeeptha
Aged about 2 Years 7 months
Both are R/o Analekoppa Colony
Sagar Town, Shivamogga District.

(By Sri.M.S.Gowdar.,Advocate)

Respondent : Sri.Vishwadeeptha S/o Janardhana
Jois Aged about 34 Years,
Occupation : Laptop, Mobile and
Electronic Products wholesale
business and agriculturist,
R/o Manduru Village, Narimogaru
Puttila Putturu Taluk,
Dakshina Kannda District.

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

ORDERS ON INTERIM MAINTENANCE

The petitioners have filed this interim application to claim interim maintenance of Rs. 15,000 per month from the respondent.

Earlier, the court had awarded ex-parte interim maintenance against the respondent, which was challenged by the respondent before the Hon'ble V Additional District and Sessions Judge, Shivamogga, sitting at Sagar under Criminal Revision Petition No. 10024/2023, wherein the Hon'ble Session Court set aside the ex-parte interim maintenance order with a direction to give sufficient opportunity to the respondent to file his objection and documents, then pass the appropriate orders on merits.

2. This interim application is supported by an affidavit of petitioner no. 1, wherein she states that she is the legally wedded wife of the respondent. Their marriage was solemnised on 29th April 2018 as per rituals of the Hindu religion. Soon after the solemnization of marriage, petitioner No. 1 joined the matrimonial house and led her life with the respondent. Out of their wedlock, petitioner no. 2 was born to them. The respondent and his family

members showed disinterest and discouragement towards petitioner no. 1 because she gave birth to a female child, and they started harassing her and also picked quarrels with her for silly reasons. Despite the tortures given by the respondent and his family members, the petitioner has sustained the same.

On 10th March 2022, the respondent has beaten the petitioner no. 1 with the instigation of his parents and brought her to parental house, left the petitioners, and went back to his native place. The father of petitioner no. 1 does not have any occupation, and he is a poor person, but the respondent has a sufficient source of income from agriculture and business and is getting a yearly income of Rs. 25,00,000/-. Despite that, the respondent has neglected to provide maintenance; hence, the petitioners have prayed to allow the interim application and award interim monthly maintenance of Rs. 15,000/-.

3. As per the order of the Hon'ble Sessions Court, the court has granted sufficient opportunities to the respondent to file his objection and submit the documents in support of his contentions. Accordingly, the respondent has filed an objection to the interim

application as well as the main petition. The gist of the respondent's objection is that he is the victim of fraud committed by petitioner no. 1. He did not give consent at the time of his marriage with petitioner no. 1. his consent was obtained by committing fraud and misrepresentation.

After marriage, he and his parents doubted that petitioner no. 1 was not mentally sound and she was suffering from some incurable and prolonged mental illness, which made her unfit for leading a peaceful and harmonious martial life with him. After the completion of the marriage ceremony, the respondent took her to the matrimonial house, where she started to behave improperly and strangely—that is, she was crying for no reason and getting angry without any reason, feeling depressed and lethargic, and a lack of interest in anything apart from exhibiting suicidal attempts. Looking at her condition, the respondent and his parents were annoyed and highly worried about her behavior and informed her father about her mental illness, but he refused to cooperate with taking petitioner no. 1 for any counselling and treatment from a psychiatrist. The

respondent and his parents have shown great love and affection towards the petitioner no.1 and have taken her for medical counselling at Manashanthi Counselling Research Center at Mangalore, but petitioner no. 1 refused to talk with the doctor and also refused to visit for treatment. Therefore, petitioner no. 1 is suffering from prolonged mental illness and also suffering other health issues, she took treatment for her mental illness in 2004, but her parents suppressed the same at the time of her marriage with the respondent. Petitioner No. 1 took treatment for her mental illness in various hospitals. The respondent was shocked to know about her mental health condition, even though he maintained great patience and had a strong hope that her mental illness would be cured in the future with proper medication and counselling. In the meantime, petitioner no. 1 was cured of her mental illness due to the effort of the respondent in providing timely medical treatment to her, and she was able to conceive and gave birth to petitioner no. 2 on 19.03.2021, and he paid all the medical expenses. Even after she gave birth to petitioner no. 2, petitioner no. 1 did not take care of the child nor attend to her

needs, instead, she was talking through mobile phones both day and night. If advised, she would quarrel and threaten the respondent and his parents that she would commit suicide and also threaten to lodge a false complaint against them and also threaten to send them to jail. The petitioner no. 1 is suffering from incurable mental disease; the mother of the respondent is suffering from diabetes and other age-related ailments. The respondent and his family members have lost peace and harmony in the family, and their lives have become desperate.

The respondent further contends that, on 29.11.2021 at about 1 PM, petitioner no. 1 all of a sudden started quarreling with the respondent's mother and started shouting that she had to pay Rs. 40,00,000/- at once or else she would lodge a complaint against the respondent and his family members. The respondent and his parents were humiliated, and they were reluctant to lodge a police complaint against her. Accordingly, the mother of the respondent lodged a police complaint on 27.12.2021 to Dakshina Kannada Mahila Police Station, Puttur. The police conducted the investigation and advised petitioner

No. 1 to lead a proper matrimonial life with the respondent. Thereafter, a compromise talk was held between the family members of petitioner no. 1 and respondent that was held on 06.12.2020. The compromise talks ended in no settlement since petitioner no. 1 did not agree to any terms of settlement and remained adamant. Even thereafter, several meetings were held, but petitioner No. 1 did not agree to the terms of the settlement, and she made constant demands to pay the money but not to lead a happy married life with the respondent. Petitioner no. 1 went on increasing the quantum of money from 3 lakhs to 60 lakhs, and the respondent has a gross income of Rs. 2 lakhs per annum from all sources.

The respondent has no other sources of income except doing the business of selling computers and their accessories. Petitioner No. 1 is not having good relations with her parents; for that reason, she has started residing separately. Petitioner no. 1 herself has willfully deserted the company of the respondent, and she is not ready to lead the matrimonial life with the respondent. The petitioner no. 1 is suffering from incurable mental

disease; her parents performed her marriage with the respondent by suppressing her mental disease, and the said marriage was performed by committing fraud and misrepresentation with the respondent; as such, the marriage between petitioner no. 1 and the respondent itself was vitiated by fraud and nullity under Section 12 of the Hindu Marriage Act; therefore, the petitioner no. 1 is not entitled to any reliefs based on such a void marriage; hence, with the above-mentioned reasons, the respondent prayed to dismiss the interim application.

4. Perused the petition averments and statement of objections and documents produced by both parties, the following points that arise for my consideration.

POINTS FOR CONSIDERATION

1. Whether the petitioners have made out valid reasons for claiming interim maintenance from the respondent ?

2. Whether the mental illness of petitioner no.1 debars her from claiming any sort of maintenance from the respondent ?

3. Whether the respondent has made valid reasons for refusing to grant interim maintenance ?

4. Whether the petitioners are entitled to interim maintenance, if yes, then what is the quantum of maintenance they are entitled to ?

5. What order ?

5. The learned counsel for the petitioners has canvassed his oral arguments on interim maintenance, whereas the learned counsel for the respondent has submitted his written arguments..

6. The petitioners and respondent have submitted their affidavits in compliance with the guidelines laid down by the Hon'ble Supreme Court of India in the case of Rajnesh Vs Neha.

7. Both parties have produced marriage invitation cards and medical reports of the petitioner no. 1 for having taken medical treatment for her mental disease..

8. Upon hearing arguments of the learned counsel for the petitioner, and on going through the written arguments submitted by the learned counsel for the respondent and on going through the documents produced by both parties, my answers to the aforementioned points are as follows:.

Point No.1 In the affirmative

Point No.2 In the negative

Point No.3 In the negative

Point No.4 In the affirmative

Point No.5 As per the final order for the following;

REASONS

9. **Points No.1 to 4** : These points are interconnected with each other, hence to avoid repetition of facts, all the points are taken together for common discussion.

It is undisputed facts that petitioner no. 1 and respondent are the husband and wife; their marriage was solemnised as per the rituals of the Hindu religion; after the performance of marriage, both of them led their lives happily for a couple of years, even though the respondent was fully aware that the petitioner no. 1 was suffering from mental illness. As per the admission of the respondent in his statement of objection, petitioner no. 1 was absolutely fine from her mental illness, and she conceived and gave birth to petitioner no. 2. but none of the medical documents produced by the respondent show that the mental illness of petitioner no. 1 is not curable, though she studied in the hostel, which does not

make her live separately from her parents. As per the admission given by the petitioner no. 1 in her evidence that she is taking treatment for her mental illness and she is performing all her activities in the home like cooking food and taking care of her child, which presupposes that she can maintain the family, if her attitude in the matrimonial house was not good due to her mental illness, that itself is not a sufficient ground to keep away from the matrimonial house. The mother of the respondent, in her complaint to the women's police station, stated that petitioner no. 1 was suffering from physical health issues but not from mental health issues. Further, the medical history of petitioner no. 1 discloses that, during her school days, she was suffering from depression and attempted to get suicide, but later medical history shows that she was suffering from headaches but not from any mental health issues.

10. The respondent has submitted that, the petitioner no. 1 is suffering from incurable mental disease, but on perusal of her deposition before the court, it shows that she is mentally fit, if she did not have sound mental

status, then she could not have deposed her evidence before the court. The respondent further submitted that, the petitioner no. 1 has shown abnormal behavior in the house; if that is so, what prevented him to continue the medical treatment for her and make her perfectly all right with proper medication and to lead a happy married life? The marriage between petitioner no. 1 and respondent was an arranged marriage. At the time of marriage, both the petitioners no. 1 and the respondents took their seven steps and promised to live forever in love and affection towards each other. A ritualistic marriage was performed; she gave birth to a baby girl. In such circumstances, the Court cannot hold that petitioner no. 1 suffers from an incurable mental illness. Now that the medical field has improved, any kind of medical disease can be cured. Be it a physical health or a mental health condition, medication is available. The respondent shall make best efforts to take the petitioner no. 1 to a good hospital and provide good treatment for her mental illness.

11. If petitioner no. 1 was suffering from any of the diseases after the performance of marriage, was it

grounds to keep her away from the matrimonial house? petitioner no. 1 till she gave birth to petitioner no. 2, the respondent and his family members took care of her with love and affection. After she gave birth to a female child, their version was changed, and they started harassing her. The petitioner no. 1 in her evidence clearly stated that she attempted to get suicide due to the torture given by the respondent, and at this stage to dispose of the interim application, the court cannot discuss the merits of the case, but the learned counsel for the respondent has made reference in the written arguments about the admission given by the petitioner in her evidence.

12. Both petitioners and respondent have submitted their affidavits, on going through the same, it appears to the court that the petitioner no. 1 does not have any source of income; she is the destitute lady; she has to take care of her daughter; she has to provide better education to her daughter; under such circumstances, she requires maintenance from the respondent; while disposing of the maintenance application, the court has to consider the financial status of the parties, but not the

earlier marriage disputes, because this is not a divorce petition to discuss the grounds of cruelty and desertion, even though the petitioner has stated in the evidence that, as per her own request, the respondent took her to her parental house; after that, the respondent has not made any effort to take her to the matrimonial house and to provide better medical treatment to her.

13. The respondent has stated in the objection that, his yearly income is Rs. 2 lakhs, then the maintenance amount claimed by the petitioners is not so exorbitant to him. The respondent knew that the petitioners have no source of income; despite that, he filed a divorce petition at Puttur, so to give harassment to petitioner no. 1, because she could not travel to Puttur without any financial assistance from the respondent, further during the pendency of this interim application, the learned counsel for the respondent submitted that there is an element of settlement between the parties, but even after giving sufficient time, the respondent has not reported the settlement to the court. If the respondent is a really caring and loving husband and father of

petitioners, he could make regular payments of maintenance irrespective of court orders. The respondent has not made any effort to pay some amount as maintenance to petitioners from the date of filing of this petition and the earlier maintenance amount was passed by this court without looking at the financial status of the respondent. Now the respondent has produced income tax returns, which clearly depict that he is having sufficient sources of income to pay the maintenance; hence, the earlier quantum of maintenance awarded by this court is required to be enhanced.

Therefore, looking into the facts and circumstances of this case, and on going through the affidavits and documents furnished by both parties, this court is of the opinion that, the petitioner no. 1 is entitled to monthly interim maintenance of Rs. 8,000 per month and the petitioner no. 2 is entitled to Rs. 3,000 per month. On perusal of the order sheet, I noticed that the respondent has made some payment of maintenance that has to be adjusted in the arrears of maintenance. Therefore, the respondent is liable to pay the maintenance from the date of the petition; therefore, the mental illness of the

petitioner no. 1 does not debar her from claiming maintenance, the respondent has not made out valid grounds to refuse interim maintenance to the petitioners., accordingly I answer point no.1 in the affirmative, point no.2 and 3 are in the **negative**, point no.4 in the **affirmative**.

14. Point No.5: For the above said reasons and discussions, I proceed to pass the following:

ORDERS

The application filed by the petitioners for claiming interim maintenance is hereby partly allowed.

The respondent is hereby directed to pay interim maintenance of Rs.8,000/- per month to the petitioner no.1 and Rs.3,000/- per month to the petitioner no.2 from the date of petition till its disposal.

The earlier maintenance amount paid by the respondent has to be adjusted in the arrears of maintenance.

The respondent is hereby directed to pay the interim maintenance amount regularly without committing default.

The Office is directed to supply free copy of this orders to the petitioners.

For further cross of PW.1,

call on 22.08.2024.

*(Directly typed by me on my laptop, corrected by me
and pronounced the order in the open court on this 29th
day of July 2024)*

(Shrishail.B.Bagadi)
Principal Civil Judge and JMFC, Sagar.

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23/07/2024

*petitioner by MSG
respondent by KNS
for orders.*

27/07/2024

*petitioner by MSG
respondent by KNS
for orders.*

29/07/2024

*petitioner by MSG
respondent by KNS
for orders.*

*-Order pronounced in the open Court
(vide separate judgment).*

ORDERS

The application filed by the petitioners for claiming interim maintenance is hereby partly allowed.

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For further cross of PW.1,

call on 22.08.2024.

Principal Civil Judge and JMFC, Sagar.

