

IN THE COURT OF THE CIVIL JUDGE AT ANKOLA

Dated this the 26th day of February 2019

PRESENT

Sri Shambhulingayya Mudimath,

B.Com.,LL.B. (Spl.),

Civil Judge and J.M.F.C.,

Ankola.

CRIMINAL MISCELLANEOUS NO.69/2017

PETITIONER : Smt.Savithri Vinayak Naik

W/o Vinayak Chudiyaya Naik,

Aged 35 years,

Occ: Household,

R/o Hanumatta, Vandige,

Taluk: Ankola.

(By Sri S.R.Narvekar, Advocate)

-Vs-

RESPONDENT : Sri Vinayak Chudiyaya Naik,

Aged 50 years,

Insurance Agent,

R/o Krishnapur, Baleguli,

Ankola Taluk.

(By Sri A.N.Talgeri, Advocate)

**ORDER ON APPLICATION FILED UNDER SECTION
125(2) of CR.PC. FOR INTERIM MAINTENANCE**

This is an application filed by the petitioner under Section 125(2) of Cr.P.C. directing the respondent to pay interim monthly maintenance of Rs.10,000/- to the petitioner till the disposal of the main petition.

2. Along with the application the petitioner has filed the affidavit wherein she contended that she is the wife of respondent. It is further contended that, her marriage with respondent was solemnized on 16.5.2016 at Kundodari Temple Sabhagraha of Mathakeri Ankola. At the time of marriage her parents had gave Rs.200000/-, Gold braslet, Gold ring and Gold chain to the respondent. Few days after marriage the younger sister of respondent including respondent started harassing the petitioner with mentally and physically and demanded for more dowry. The respondent being the LIC agent earning more than Rs.50,000/- and he also earning Rs.20,000/- from the agriculture has intentionally neglected the petitioner without proper reasons. The respondent being husband of the petitioner has all duty to care the petitioner and provide the basic necessity, but he neglected her for providing the basic necessities. It is further contended that, on 01-07-2017 the respondent and his sisters thrown out the petitioner from the house, thus the petitioner now residing in rental house in her parental village. It is further contended that, she has filed the petition for maintenance against the respondent,

the said petition will takes some time for disposal, until deciding of the petition the petitioner need some money for her day to day maintenance, hence she sought for issuing direction to the respondent to pay monthly interim maintenance of Rs.10000/- till deciding of the case.

3. On the other hand the respondent appeared through his advocate and filed detail objection with a contention that, petitioner is his wife and he doing work as LIC Agent are admitted. It is denied all other allegation made in the petition. He also denied that, he or his sisters made harassment to the petitioner mentally and physically. He had spent huge amount for marriage and also spent for medical expenses of his mother treatment. The petitioner wants a luxurious life from the respondent, there is no income to the respondent as alleged in the petition. When respondent objected for luxurious life of the petitioner, the petitioner herself left the company of respondent and deserted the respondent without any proper reason. Hence respondent is not liable to pay any interim maintenance. The petitioner also got knowledge about computer typing and earns for her livelihood and maintain herself. Thus she is not required any financial help from the respondent. Hence he sought for rejecting the interim application for interim maintenance.

4. I have heard and perused the materials available on record.

5. Now the points that arise for my consideration as under.

1. Whether petitioner has made out good grounds for allowing the application and issuing direction to the respondent to pay monthly interim maintenance of Rs.10,000/- till disposal of the main petition.?
2. what order?

6. My answer to the above points for my consideration as under:-

Point No.1: In the partly affirmative.

Point No.2: As per final order for the following

REASONS

7. **POINT NO.1:-** Admittedly, this is a case for maintenance directing the respondent to pay maintenance of Rs.15,000/- per month to the petitioner.

8. According to petitioner, she is the wife of respondent. Her marriage with respondent was solemnized on 16.5.2016 at Kundodari temple, Mathakeri, Ankola. At the time of marriage, her parents gave Rs.2,00,000/- and gold ornaments to the respondent. After marriage, petitioner went to the respondent house for matrimonial life. The respondent and his younger sister started harassing the petitioner with mentally and physically by demanding the more dowry. Lastly they threw the petitioner from the house without providing any basis necessities. Hence, she constrained to file the petition for maintenance.

9. On the other hand, respondent admitted that, he is the husband of petitioner and doing work as LIC agent, but he denied all other allegations made in the petition. He also contended that, petitioner able to maintain herself and she herself deserted the company of her husband. Hence, he sought for dismissal of the petition.

10. I have perused the application, affidavit and objection of both parties. While arguing on application, the petitioner relied documents like marriage photos, record of rights of Sy.No.150/5, 148/4, 149/5, 109/2B, 143/2B and 262 of Tenkankeri village and wedding card.

11. Admittedly, the respondent did not disputed he is the husband of petitioner. The petitioner alleged that, she was thrown out from the house of respondent without providing basic necessities.. The respondent alleged that, his wife i.e., petitioner herself deserted the company of her husband and residing in her parental house wanting luxurious life and she also able to maintain herself. This contention of respondent at this juncture, prima facie shows that, petitioner now residing in her parental village. The respondent also pleaded that, petitioner herself able to maintain herself and earns money from computer typing. But, showing this fact, the respondent did not produced any document to show petitioner earns such a such money from computer typing.

12. The petitioner alleged that, her husband and sisters of her husband thrown out her from the house. Hence, she now residing in her parental village in a rental house. This pleading and contention in the affidavit are at this juncture prima facie shows that, the petitioner needs some money for leading her life and to meet her basic necessities. Whether petitioner herself deserted the company of respondent or not is to be decided after full pledge trial of the case. The respondent being the husband of petitioner is having responsibility to provide basic necessities to his wife. Hence at this juncture it prima facie shows that, respondent neglected his wife. Thus petitioner requires money for her maintenance. At this juncture there are no materials available on the record showing petitioner has sufficient income to maintain herself.

13. Admittedly, there is no dispute about relationship between the parties and respondent working as L.I.C. Agent. The petitioner did not produced any document to show how much commission will obtain by the respondent from L.I.C. business. The petitioner produced some record of rights of landed properties. On perusal of the record of rights, it prima facie shows that those properties are standing in the name of father of respondent along with other joint owners. Those properties are not standing in the name of this respondent. Hence, it is not possible to hold how much income is from the landed properties to the respondent. Admittedly, respondent working as a L.I.C. agent. In

generally L.I.C. agents will earn money from the commission, it depends upon their business. Hence, having regard to the contention in the petition and affidavit sworn to the application, I am of the view that, petitioner at this juncture has made out prima facie case as against the respondent, thus she is entitled for interim maintenance from the respondent. No specific document is produced by the petitioner about income of the respondent. Under such circumstances, I am of the view that if respondent is directed to pay interim maintenance of Rs.3,000/- per month to the petitioner, it would meet ends of justice and said amount is just and reasonable. Hence, I answered point No.1 in the partly affirmative.

14. **POINT NO.2:-** For the aforesaid reasons, discussion above considering the material on record, I proceed to pass the following

ORDER

The application filed by the petitioner under Section 125(2) of Cr.P.C. for interim maintenance is partly allowed.

The respondent is directed to pay interim

maintenance of Rs.3,000/- per month to the petitioner from the date of this order.

(Dictated to the Stenographer, transcribed and typed by her, the same is corrected and then pronounced by me in the open court on this the 26th day of February 2019.)

(Shambhulingayya Mudimath)

J.M.F.C., Ankola.