

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

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BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

REV.PET FAMILY COURT NO.21 OF 2024

BETWEEN:

SRI. RAVI
S/O SHIVANNA,
AGED ABOUT 52 YEARS,
EMPLOYEE NO:4651
PRODUCTION DEPARTMENT
VIKRANT TYRES LTD.,
METAGALLI,
INDUSTRIAL AREA,
MYSURU.

AND ALSO R/AT HOSA BEEDI,
IN FRONT OF MUDDEGOWDA'S SHOP,
KUMBARA KOPPAL,
MYSURU -570 001.

...PETITIONER

(BY SRI. K.L. SREENIVAS.,ADVOCATE)

AND:

SMT. KALAVATHI
W/O RAVI
AGED ABOUT 45 YEAS,
R/AT NO.1927, 7TH CROSS,
TENT ROAD, JANATHANAGAR,
MYSURU -570 001.

...RESPONDENT

(BY SRI. RUPESH KUMAR S.,ADVOCATE)

THIS RPFC IS FILED UNDER SECTION 19(4) OF FAMILY COURT ACT, AGAINST THE ORDER DATED 05.10.2023 PASSED IN CRL.MISC.NO.251/2023 ON THE FILE OF THE PRINCIPAL



JUDGE, FAMILY COURT, MYSURU, PARTLY ALLOWING THE PETITION FILED UNDER SECTION 127 OF Cr.P.C.

THIS REVISION PETITION FAMILY COURT HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

This RPFC is filed under Section 19(4) of the Family Courts Act, 1984, by the petitioner/wife against the Judgment dated 30.01.2018 passed by the Court of the II Additional Principal Judge, Family Court, Bengaluru, in C.Misc.No.204/2026, dismissing the petition praying for grant of maintenance.

2. Petitioner before this Court is the husband, who was respondent before the Family and respondent before this Court is the wife, who was Petitioner No.1 before the Family Court.

Brief facts of the case are as under:

3. That the marriage of petitioner and respondent was solemnized during 1993 at Dharmasthala temple and they have one daughter by name Nethravathi out of the

wedlock. Due to differences between them, the respondent and her daughter filed a Cr.Misc.No.255/1995 which was allowed by granting maintenance of Rs.300/- p.m., to daughter and Rs.500/- p.m., to respondent. Thereafter, CrI.Misc.No.289/2002 under Section 127 of Cr.P.C., was filed by respondent and daughter for enhancement of maintenance. The same was allowed and enhanced to Rs.1,000/- p.m., to each of them. Later, respondent and her daughter filed CrI.Misc.No.389/2009 under Section 127 of Cr.P.C., for enhancement of maintenance. The same was allowed by order dtd 17.04.2012 granting maintenance of Rs.3,000/- p.m., to wife and Rs.2,000/- p.m., to daughter.

4. Thereafter, the respondent and her daughter got filed a petition under Section 125 of Cr.P.C., seeking for recovery of the arrears of maintenance from the petitioner, which came to be registered as CrI.Misc.No.273/2018. However, the petitioner and the respondent with a view to put an end to the dispute between themselves, have arrived a settlement at the advice of the elders, and in

furtherance of the same, and filed a joint memo dated 12.03.2019 wherein the respondent and daughter agreed to receive Rs.9,50,000/- as permanent alimony from the petitioner as full and final claim, and a sum of Rs.4,00,000/- was paid to the respondent therein by the petitioner, and the balance amount of Rs.5,50,000/- is agreed to be paid by the petitioner to the respondent at the time of hearing of the petition to be filed under Section 13B of the Hindu Marriage Act. Thereafter the petitioner and the respondent got filed a petition in M C No 276/2018 before the Family Court, Mysuru, under Section 13B of the Hindu Marriage Act, on 13-03-2019 seeking to dissolve their marriage by a decree of divorce on mutual consent. However, after receipt of the amount of Rs,4,00,000/- hereafter, respondent and the daughter filed petition in C.Misc.No.251/2023 under Section 127 of Cr.P.C., for enhancement of the maintenance, which was contested by the petitioner by filing the objections contending that as the respondent had already settled the dispute by agreeing to receive permanent alimony the petition is not

maintainable. Thus the respondent having settled the matter pertaining to maintenance agreeing to receive a sum of Rs.9,50,000/- as permanent alimony; the same had attained finality being unassailed or modified, she could not have resorted to file a petition under section 127 of Cr.P.C. for enhancement of the maintenance, and if the balance amount as agreed in the joint memo was not paid, she could have either sought to recall the order passed on joint memo or sought to recover the balance amount if any. But, the Family Court without properly considering the material on record, vide Order dt.05.10.2023 partly allowed the petition directing the petitioner to pay monthly maintenance of Rs.6,000/- to respondent from the date of the order till her lifetime.

5. In support of her case, Petitioner No.1 got examined herself as PW.1 and got marked Ex.P1 to Ex.P18. The respondent got examined himself as RW.1 and got marked Ex.R1 to Ex.R8.

6. The Family Court has discussed that as per joint memo, the respondent had to pay Rs.9,50,000/-, but has paid only Rs.4,00,000/- and remaining amount has to be paid, but the parties have disputed regarding the remaining amount of Rs.5,50,000/-. Petitioner No.1 has admitted that she has received Rs.4,00,000/- from the respondent and has denied regarding receipt of Rs.5,50,000/- on 25.10.2019.

7. RW.1-respondent has deposed that he is a Labourer and earning Rs.50,000/- and the cash in hand is Rs.25,000/-. No documents are produced to prove the income of the respondent. RW1 has also admitted that no petition has been filed for divorce. Therefore, the Family Court held that the payment of permanent alimony is not evidenced before the Court and no acceptable evidence is produced before the Court. Therefore, the Family Court held that the admitted facts that the 1st petitioner has obtained medical treatment, about the salary drawn by the respondent and non-availability of documents of payment

of permanent alimony, have remained unchallenged. Therefore, they constitute change of circumstances.

8. Thus, the Family Court has partly allowed the petition and ordered the respondent-husband to pay enhanced maintenance amount of Rs.6,000/- p.m., from the date of order, till her life time. Further, ordered to pay future maintenance as and when it becomes due to the 1st petitioner. The claim of Respondent No.2-daughter is dismissed. Further, ordered respondent to pay litigation expense of Rs.1,000/- to the petitioners.

9. Learned counsel for the petitioner-husband contended that the Respondent No.1-wife submitted that solemnization of marriage of petitioner and respondent No.1, filing of CrI.Misc.255/1995, subsequent end enhancement of maintenance, filing of MC No.233/2019 under Section 13-B of Hindu Marriage Act, are admitted facts. Petitioner contends that entire amount of maintenance has been paid to the 1st petitioner. It is submitted that after compromise, the respondent had

sought for permanent alimony of Rs.9,50,000/- to the 1st petitioner from the respondent. On 12.03.2019, a sum of Rs.4,00,000/- was paid to Petitioners 1 and 2 on 12.03.2019 and the remaining permanent alimony of Rs.5,50,000/- was paid on 25.10.2019 outside the Court premises. It is submitted that even after payment of entire maintenance amount, the petitioner No.1 is making false allegations. Moreover, all the matters have been compromised.

10. Learned counsel for Respondent-wife herein contended that she does not have any source of income to maintain herself and daughter. It is contended that after the compromise, the respondent agreed to pay Rs.9,50,000/- as permanent alimony and out of that only a sum of Rs.4,00,000/- was paid to the respondent-wife in cash on 12.03.2019. The remaining alimony of Rs.5,50,000/- has to be paid to the respondent-wife. Therefore, it is contended that this RPFC may be dismissed and the well-reasoned order passed by the Family Court in Crl.Misc.No.251/2023 may be confirmed.

11. Heard the learned counsel for the petitioner as well counsel for the respondent and perused the records.

12. The Family Court Judge has observed that when the payment of permanent alimony has not attained the finality, then the last enhancement of the maintenance has been in 2012. Subsequently the Petitions were filed for recovery and then in one of that recovery Petitions, Crl.Mis.No.276/2018, joint memo was filed. There is lack of evidence about the payment of permanent alimony to the 1st Petitioner. Section 127 of Cr.P.C. envisages about the change of circumstances. The Respondent himself has admitted that his present salary is Rs.50,000/- and that he gets cash in hand Rs.25,000/-. What exactly is his income, there is no evidence placed before the Court. The admitted fact of Respondent about non-availability of the documents pertaining to the payment of the permanent alimony by itself entitles the ground for enhancement of maintenance under Section 127 of Cr.P.C. It is almost after five years that is present Petition has been filed. The escalation of the prices, the age of the parties, that the 1st

Petitioner has undergone treatment of covid, it is appropriate to enhance the maintenance @ 6,000/- p.m., to the 1st Petitioner from the date of order. The admitted facts about the salary by the Respondent, non-availability of the documents of payment of permanent alimony, the fact that the 1st Petitioner has obtained the medical treatment have remained unchallenged. All these constitutes change of circumstances.

13. It has been observed by the Family Court Judge that the citation referred by the learned Counsel for the respondent reported in **2019[2] Kar.L.J. 811** in case of **Smt. Shakuntala V/s. Kashappa @ Kashinath and others**, cannot avail the benefit as the admitted fact of Respondent about non-availability of the documents about the payment of permanent alimony and also of availability of that amount in his bank though the Respondent has stated to have obtained the gold loan in that regard.

14. The Family Court has referred to the citation reported in **2015[4] AKR 408** in case of **Gowramma V/s. Lakshmikanthaiah**, wherein it is held as follows:

"9. It is trite that, if the husband is healthy, able bodied and is in a position to support, he has the legal obligation to support his wife, unless, she is disqualified to receive the same.

10. In the matter of determining the quantum of maintenance, in **Jasbir Kaur Sehgal v. District Judge, Dehradunand. 1997 7 SCC 7**, Apex Court, has held as follows:

"The Court has to consider the status of the parties, their respective needs, the capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and of those he is obliged under the law and statutory but involuntary payments or deductions. The Amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband and also that she does not feel handicapped in the prosecution of her case. At the same time, the amount so fixed cannot be excessive or extortionate."

15. The husband cannot be permitted to plead that he is unable to maintain his wife due to financial constraints as long as he is earning or capable of earning. As observed by the Family Court, in **Chander Parkash Bodhraj V/s. Shila Rani Chander Prakash (AIR 1968 DELHI 1981)**, High Court of Delhi, has held as follows:

"An able-bodied young man has to be presumed to be capable of earning sufficient money so as to be able reasonably to maintain his wife and child and he cannot be heard to say that he is not in a position to earn enough to be able to maintain them according to the family standard. It is for such able-bodied person to show to the Court cogent grounds for holding that he is unable to

reasons beyond his control, to earn enough to discharge his legal obligation of maintaining his wife and child. When the husband does not disclose to the Court the exact amount of his income, the presumption would be easily permissible against him."

16. On hearing the learned counsel for the parties and on perusal of records, the petitioner-husband himself has admitted that he is earning a salary of Rs.50,000/- p.m. There is a clear admission about the earning of petitioner by himself.

17. The Hon'ble Supreme Court in the case of **Bhuwan Mohan Singh vs. Meena and others** reported in **(2015) 6 SCC 353** has held as under:

"In fact, it is the sacrosanct duty to render the financial support even if the husband is required to earn money with physical labour, if he is able-bodied. There is no escape route unless there is an order from the court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds."

18. The Family Court, considering the escalation of the prices, the age of the parties and that the respondent-wife has undergone treatment for Covid, has rightly granted maintenance of Rs.6,000/- p.m., payable from the date of order till life-time of respondent-wife.

19. In view of the above, this Court is of the considered opinion that the impugned order dated 05.10.2023 passed by the Court of Principal Judge, Family Court in Crl.Misc.No.251/2023 does not suffer from any illegality or perversity warranting interference.

20. In the result, the following order is passed:

- i) The RPFC is ***dismissed.***
- ii) The petitioner-husband shall pay monthly maintenance of Rs.6,000/- from the date of order till life-time of respondent-wife.
- iii) Litigation expenses of Rs.1,000/- as order by the Family Court shall be paid to respondent-wife.
- iv) No order as to costs.
- v) Pending I.As, if any, shall stand disposed of.

**SD/-
(DR.K.MANMADHA RAO)
JUDGE**

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