



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 791 OF 2022

BETWEEN:

SRI HARIKRISHNA
S/O KUNHAPPA NAIKA
AGED ABOUT 39 YEARS
R/AT BENGADKA HOUSE
KANIYUR VILLAGE KADABA TALUK
D K DISTRICT - 574 328

...PETITIONER

(BY SRI. RAKSHITH KUMAR, ADVOCATE)

AND:

SMT HARINAKSHI K
D/O PADMANABHA NAIKA
AGED ABOUT 33 YEARS,
R/AT KUDEREGUNDI HOUSE
KADABA VILLAGE KADABA TALUK
D K DISTRICT - 574 328

...RESPONDENT

(BY SRI. SUYOG HERELE E., ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C BY THE
ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONBLE
COURT MAY BE PLEASED TO SET ASIDE THE IMPUGNED ORDER
DATED 02.02.2022 PASSED BY THE HONBLE V ADDITIONAL
DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU SITTING
AT PUTTUR, D.K IN CRL.A.NO.5033/2019 AND ALSO ORDER





DATED 09.05.2019 PASSED BY THE HONBLE PRINCIPAL CIVIL JUDGE AND JMFC PUTTUR, IN CRL.MISC.NO.14/2019.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

1. Heard Sri. Rakshith Kumar, learned counsel for the revision petitioner and Sri. Suyog Herele E., learned counsel for the respondent.
2. Respondent-husband who suffered an Order of maintenance in C. Misc. No.14/2019 which was confirmed in Criminal Appeal No.5033/2019 is the revision petitioner.
3. Admittedly, the wife is not residing along with the husband as she has been thrown out of the matrimonial house and therefore she approached the Magistrate under the provisions of Section 12 of the Protection of Women from Domestic Violence Act, (hereinafter referred to as 'D.V. Act' for short).



4. Learned Trial Magistrate after issuing notice to the respondent, recorded the evidence of the petitioner-wife after entertaining the objections filed by the husband.

5. Since there was no material evidence contradicting the stand taken by the wife, inasmuch as there is no defence evidence, learned Trial Magistrate noted that there was a domestic violence which resulted in parties having separated together.

6. Further, the Trial Magistrate recorded a finding that there cannot be an Order for restoration of shared residence inasmuch as there is a threat to the life of the wife and therefore ordered maintenance in a sum of Rs.5,000/- per month and Rs.50,000/- towards the compensation for the domestic violence suffered by the wife.

7. Admittedly, there is huge arrears of maintenance. On the previous occasion, this Court granted time for the husband to make good the arrears of maintenance.



However as against due of Rs.3,00,000/- at the rate of Rs.5,000/- per month, only Rs.1,00,000/- is paid and balance Rs.2,00,000/- is still not paid.

8. The Order of learned Trial Magistrate was subjected to challenge before First Appellate Court in Criminal Appeal No.5033/2019.

9. Further, it is the wife who filed the appeal before the District Court seeking enhancement of the maintenance and learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and enhanced the maintenance in a sum of Rs.9,000/- per month towards the maintenance of minor child Adhya.

10. Being further aggrieved by same, accused-husband is before this Court in this case.

11. Sri Rakshith Kumar, learned counsel for the revision petitioner reiterating the grounds urged in the petition would contend that husband has filed petition for divorce which is pending consideration and having regard to



strained relationship between the parties, there is no possibility of amicable settlement and also the amount of Rs.9,000/- maintenance ordered by the First Appellate Court as against a sum of Rs.5,000/- ordered by the Trial Magistrate is on the higher side and therefore sought for admitting the revision petition for further consideration.

12. Per contra, Sri. Suyog Herele, learned counsel for the respondent-wife would submit that Trial Magistrate failed to Order for any maintenance amount to the minor girl child Kumari Aadya, which has been set-right by the learned Judge in the First Appellate Court by ordering a sum of Rs.4,000/- to the said child in all Rs.9,000/- payable by the husband to the respondent wife and her minor child Aadya and thus, revision petition needs to be dismissed.

13. Having heard the arguments of both sides, this Court perused the material on record meticulously.



14. On such perusal of the material on record, there is no dispute that respondent is married to the petitioner and in the wedlock a girl child by name Aadya is born.

15. Admittedly, respondent and her minor child has been thrown out of the shared residence which resulted in filing petition under Section 12 of the D.V. Act.

16. On receipt of the notice, husband appeared and did not properly contest the matter inasmuch as there is no evidence placed on record by the husband.

17. The Trial Magistrate noting that there was a domestic violence which resulted in respondent and her minor child being deserted and thrown out of the shared residence, ordered a sum of Rs.5,000/- per month only to the wife.

18. Husband did not challenge the said Order and therefore insofar as husband is concerned the order of payment of Rs.5,000/- as monthly maintenance to the wife has become final.



19. However, it is the wife who challenged the Order of grant of maintenance in a sum of Rs.9,000/- by the First Appellate Court, denying the maintenance to the minor child.

20. Learned, Judge in the First Appellate Court after considering the rival contentions of the parties, noted that husband is also required to maintain the minor child and therefore enhance the maintenance amount from Rs.5,000/- to Rs.9,000/- per month.

21. It is that Order which is under challenge before this Court.

22. Counsel however contended that there is a petition for divorce filed and therefore maintenance amount can be settled in the said divorce proceedings.

23. Pertinently, the First Appellate Court has enhanced the maintenance in a sum of Rs.9,000/- taking note of the fact that the Trial Magistrate failed to order any maintenance to the minor girl child.



24. Since there is no appeal filed by the husband insofar as the maintenance amount granted to the wife in a summer Rs.5,000/-, the challenge if any can only be to the extent of Rs.4,000/- ordered by the First Appellate Court towards the maintenance of the minor child.

25. Pertinently, there is huge arrears that is yet to be paid by the husband towards the maintenance. A girl child being reared, being looked after by the respondent-wife, approaching the First Appellate Court seeking for enhancement of the maintenance is thus justifiable in the attendant facts and circumstances of the case. Two bellies are to be filled within a sum of Rs.9,000/- including the payment of rent to a accommodation where two persons are to be housed. In the considered opinion of this Court, Rs.300/- a day is on the lower side.

26. However, in the absence of any further revision petition filed by the wife, this Court does not find any good reasons to enhance the maintenance further.



27. The contentions urged on behalf of the petitioner that the maintenance amount can be settled in the divorce proceedings is unable to be comprehended inasmuch as payment of maintenance amount under the provisions of Domestic Violence Act is in addition to the available remedies and not in derogation of the other available remedies as is held under Section 36 of the D.V. Act.

28. Therefore, this Court does not find any good reasons to interfere with the Order of the First Appellate Court enhancing the maintenance from Rs.5,000/- to Rs.9,000/- by the First Appellate Court.

29. Thus, following order:

ORDER

Revision Petition is ***dismissed***.

**Sd/-
(V SRISHANANDA)
JUDGE**

SNC
List No.: 1 Sl No.: 20