



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

REVIEW PETITION NO.614 OF 2024

BETWEEN:

H. S. RAGHAVENDRA S/O. SURYANARAYANA,
AGED ABOUT 47 YEARS,
PRESENTLY R/O. THYAGARAJANAGAR,
BENGALURU-560070.

...PETITIONER

(BY SRI RAMESH M., ADVOCATE)

AND:

1. SOWMYA KARANATH W/O. H. S. RAGHAVENDRA,
AGED ABOUT 42 YEARS,
R/O. 5TH CROSS, SHESHADRIPURAM,
SHIVAMOGGA-577201.

2. KUM. SRIDHANAVI D/O. H. S. RAGHAVENDRA,
AGED ABOUT 15 YEARS, MINOR,
REP. BY HER NATURAL GUARDIAN MOTHER
1ST RESPONDENT SOWMYA KARANATH
W/O. H. S. RAGHAVENDRA,
AGED ABOUT 42 YEARS, R/O. 5TH CROSS,
SHESHADRIPURAM, SHIVAMOGGA-577201.

...RESPONDENTS

(BY SRI SHOWRI H. R., SRI KRISHNA KUMAR K. K.,
SRI NAGARAJA B. G., & SMT. NIREEKSHA D. J., ADVOCATES

THIS REVIEW PETITION IS FILED UNDER ORDER 47 RULE
1 OF THE CODE OF CIVIL PROCEDURE, PRAYING TO REVIEW
THE ORDER DATED 24.01.2024 PASSED IN THE
R.P.F.C.NO.11/2019 BY THE HON'BLE COURT OF KARNATAKA,
IN THE ENDS OF JUSTICE.

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





CORAM: THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

ORAL ORDER

Though the matter is listed for hearing on interlocutory application with the consent of both learned counsel matter is taken up for final disposal.

2. This review petition is filed by the review petitioner under Order XLVII Rule 1 of the CPC seeking review of the order passed by this Court in RPFC No.11/2019 dated 24.01.2024.

3. The respondent No.1/wife filed Crl.Misc. No.115/2012 under Section 125 of Cr.P.C, seeking maintenance for herself and the second respondent before the Family Court, Shivamogga. The Family Court dismissed the maintenance petition insofar as the wife is concerned and granted maintenance of Rs.8,000/- per month to the daughter.

4. The wife and daughter preferred RPFC No.11/2019 under Section 19(4) of the Family Courts Act seeking grant of maintenance to the wife and



enhancement of the maintenance amount granted to the daughter. The Family Court assigned the following three reasons for dismissing the petition for maintenance insofar as the wife is concerned:

- i) The wife is working as an accountant in her brother's business, namely Vasavadatta Cement Agency, and, even assuming the facts themselves, she is earning Rs.15,000/- per month.
- ii) The wife has purchased a Honda Activa scooter; therefore, the Court assumed that she has income and dismissed the petition.
- iii) The wife admitted the daughter to National Public School, Shivamogga, by mentioning in the admission form that the annual income of the parents is Rs.72,000/- per annum. Based on this, the Family Court assumed that the wife has income and therefore dismissed the maintenance petition.

5. This Court, while considering the revision petition filed under Section 19(4) of the Family Courts Act, observed that the Family Court committed an error in



dismissing the petition insofar as petitioner No.1 is concerned. This Court observed that the Family Court assumed, without any evidence, that the wife was working as an accountant in her brother's cement agency. When no evidence was produced by the husband in this regard, the Family Court merely assumed the fact and dismissed the petition. This constituted an error on the part of the Family Court, which has been rectified by this Court.

6. The Family Court further assumed that since the wife had purchased a Honda Activa scooter, she must be having income. This Court observed that merely because the wife purchased a Honda Activa scooter, it cannot be concluded that she is earning an income. It is possible that her father may have purchased it on her behalf, and that by itself does not establish that the wife has sufficient income to maintain herself. The wife may be dependent on the mercy of her parents. Therefore, this Court observed that the Family Court erred in assuming



that the wife had income without any supporting proof. Accordingly, the order of the Family Court was set aside.

7. Further, the Family Court observed that the petition filed by the husband for restitution of conjugal rights was allowed and that the wife did not join the matrimonial home of the husband. Therefore, the Court found fault with the wife and rejected the maintenance petition of petitioner No.1.

8. This observation of the Family Court is erroneous. Merely because a decree for restitution of conjugal rights is granted and the wife does not join the matrimonial home, it does not bar the grant of maintenance. Section 9 of the Hindu Marriage Act provides an option to both the husband and the wife to seek restitution of conjugal rights and resume marital life. If the wife does not join the matrimonial home despite such a decree, she cannot be compelled to join the husband merely because of the decree.



9. Therefore, the Family Court erred in rejecting the claim for maintenance solely on the ground that the decree for restitution of conjugal rights was not honoured. The claim for maintenance is an independent right. The mere fact that a decree for restitution of conjugal rights has been granted and that the wife has not joined the matrimonial home cannot be a ground to deny maintenance, as there may be several reasons for her not returning to her husband's home which may not have been explained before the Court in the petition for restitution of conjugal rights. Hence, in this regard also, the Family Court committed an error and the said order was set aside.

10. By assigning the above-stated reasons, the revision petition filed by the wife and daughter was allowed, thereby granting Rs.12,000/- per month to the wife and Rs.10,000/- per month to the daughter.

11. When the relationship between the parties is not in dispute, it is the obligation of the husband to



maintain his wife and child. Merely because the husband has pleaded economic inability, it cannot be a ground to reject the maintenance petition. This Court further observed that the husband was running a petrol bunk and was also earning income by practising astrology. Although the learned counsel for the husband submitted that the husband had sustained losses in the petrol bunk business and had surrendered his dealership, no evidence in this regard is produced either before the Family Court or before this Court. Hence, it is the bounden duty of the husband to maintain his wife and child, and accordingly the order granting maintenance was passed.

12. Therefore, considering the grounds urged in the review petition and the submissions made by the counsel for the petitioner, there are no valid grounds to entertain the review petition. Further, whether a review petition against an order passed in an RPFC filed under Section 19(4) of the Family Courts Act is maintainable is itself a considerable question.



13. When a review petition is filed under Order XLVII Rule 1 of the CPC, the husband/review petitioner must satisfy at least one of the grounds enumerated therein to warrant review of the order. In the present case, upon considering the grounds urged, there is no error apparent on the face of the record. No sufficient reasons have been made out to entertain the review petition under Order XLVII Rule 1 CPC.

14. Further, the original petition was filed under Section 125 Cr.P.C. by the wife and daughter, although the revision petition was filed under Section 19(4) of the Family Courts Act. Considering the principles under the Code of Criminal Procedure, there is no scope for reviewing orders passed under the Code of Criminal Procedure. Even the inherent powers under Section 482 Cr.P.C. can be exercised only in cases where there is an abuse of the process of the Court.

15. In the present case, filing a petition seeking maintenance cannot be considered an abuse of the



process of the Court; rather, it is an exercise of the statutory right to claim maintenance. Further, under Section 362 Cr.P.C., except for correction of arithmetical or clerical errors, there is no scope for modification or review of the order.

16. Therefore, for the aforesaid reasons, the review petition is not maintainable and is liable to be dismissed. Accordingly, it is ***dismissed***.

In view of the dismissal of petition, pending I.A.'s, if any, shall also stands dismissed.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE