



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 25TH DAY OF MARCH 2026
BEFORE
THE HON'BLE MRS JUSTICE GEETHA K.B.
REV.PET FAMILY COURT NO. 100074 OF 2025 (-)

BETWEEN

MR. MAHANTESH S/O. BASAPPA SOBANADAR,
AGE: 35 YEARS, OCC: BUSINESS,
R/O. SY.NO.22, 1ST CROSS,
DEVANG MAIN ROAD, LAXMI NAGAR,
VADAGAON, BELAGAVI-590006.

...PETITIONER

(BY SRI. VITHAL S. TELI, ADVOCATE)

AND

SMT. IRAWWA W/O. BASAPPA SOBANADAR,
AGE: 67 YEARS, OCC: NIL,
R/O. C/O. ANASUYA VANI, H.NO.37,
BAZAR GALLI, VADAGAON, BELAGAVI-590006.

...RESPONDENT

(NOTICE TO RESPONDENT IS SERVED)

THIS RPFC IS FILED UNDER SECTION 19(4) OF FAMILY COURT'S ACT 1984 PRAYING THAT THE JUDGMENT AND ORDER DATED 08.01.2015 IN CRL.MISC.NO.428/2019 PASSED BY I ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, BELAGAVI IN AWARDING MAINTENANCE OF RS.5,000/- FROM JANUARY 2022 TILL HER LIFETIME, MAY BE KINDLY BE SET ASIDE IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER ON 13.03.2026 AND COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, MADE THE FOLLOWING:

CORAM: THE HON'BLE MRS JUSTICE GEETHA K.B.



CAV ORDER

Revision petitioner/respondent has filed this revision petition under Section 19(4) of Family Courts Act, 1984 praying for setting aside the order dated 08.01.2025 in Crl.Misc.428/2019 on the file of I Additional Principal Judge, Family Court, Belagavi (for short hereinafter referred to as 'Family Court') in awarding maintenance amount of ₹.5,000/- per month to the revision petitioner from January-2022 till her lifetime.

2. Parties would be referred with their ranks as they were before the Family Court for the sake of convenience and clarity.

3. Petitioner-mother of respondent has filed Crl.Misc.No.428/2019 under Section 125 of Criminal Procedure Code, 1973 (for short hereinafter referred to as Cr.P.C.) praying for monthly maintenance of ₹.15,000/- from respondent.



4. The case of petitioner before the Family Court in nutshell is that petitioner is widow and was doing vegetable vending business and from said income she has purchased Plot in Sy.No.22 of Vadagaon, Belagavi and also constructed a house in it. Respondent is her son and he sold the entire property situated at Muddebihal and Amaragol stood in the name of petitioner, without her knowledge. Petitioner has got another daughter by name Anasuya. Petitioner has performed her marriage and also the marriage of present respondent. The respondent taking undue advantage of innocence of petitioner, took all money belonged to her and established power loom in the house. Petitioner extended financial assistance of ₹.5,00,000/-. From the power loom, respondent started getting handsome profit. Thereafter, at the instigation of his wife, respondent started assaulting petitioner physically and was also abusing her in filthy language and stopped providing food, medicines and clothing to the petitioner. He also gave life-threat to the petitioner persuading her to transfer house property in his



name. When petitioner refused to do so, on 25.09.2017 she was dragged out from the house with a threat that she will be murdered if she does not transfer the house property into the name of respondent. Hence, the petitioner has taken shelter in the house of her daughter.

5. It is the further case of petitioner that she also gave representation to Shahapur Police Station, Belagavi, but they have not taken any action. The petitioner is suffering from her old aged ailments and requires regular treatment. She is completely neglected by the respondent. Respondent is hale and healthy and earning ₹.5,00,000/- per annum. He has intentionally neglected the petitioner. Respondent is capable to pay maintenance of ₹.15,000/- and that much amount is required for day to day maintenance of the petitioner. Hence, prayed for allowing the petition.

6. After service of notice, respondent appeared through his counsel and filed his objection statement,



wherein he admitted the relationship between the petitioner and respondent but denied all other averments made in the petition regarding purchase of the house property, throwing out the petitioner from it, installation of power loom in the property, etc. He contended that he is only working as daily labourer in power loom. Petitioner has already filed Crl.Misc.No.257/2018 under the Protection of Women from Domestic Violence Act, 2005 and it is pending for consideration. Only to harass the respondent, present petition is filed. He never objected the petitioner to reside with him in his house. The said house is ancestral property and respondent constructed the house by spending his hard earned money. Petitioner never looked after the father of respondent and never lived happily with him and not discharged her responsibilities of doing household work. Respondent is holding BPL ration card and his annual income is only ₹.36,000/-. He has to maintain his two children. Due to lockdown, he is not having any source of income to maintain his family. He worked as coolie on daily



wages since from the age of 8 years and spent money for the education of his sister. The marriage of respondent was solemnized on 08.02.2015 and afterwards petitioner started harassing the respondent. His wife has left the matrimonial house and respondent started residing in her parental house. The grandmother has bequeathed the house property to the respondent. He never neglected to maintain his mother. Hence, prayed for dismissal of the petition.

7. After filing the petition and objection statement, on behalf of petitioner, she was examined as P.W.1 apart from marking Exs.P.1 to P.3. On behalf of respondent, he was examined as R.W.1 apart from marking Exs.R.1 to R.13. Afterwards, the Family Court after hearing arguments has passed the order granting monthly maintenance of ₹.5,000/- from January-2022 till lifetime of petitioner.

8. Aggrieved by the said order, revision petitioner has preferred the present revision petition.



9. After service of notice of the petition, respondent remained absent and unrepresented.

10. Heard arguments of learned counsel for revision petitioner.

11. Learned counsel for the revision petitioner Sri Vithal S Teli would submit that revision petitioner has no source of income and without proving his source of income, the Family Court awarded maintenance of ₹.5,000/- per month, which is erroneous. Even though he has taken witness summons to witnesses to prove his contention, they became absent on the hearing dates due to election in Co-operative Society. However, further time was not granted to respondent to lead his evidence. Further, respondent was paying ₹.3,000/- per month to petitioner. The Family Court has accepted the affidavit evidence of petitioner, which is not in accordance with law. For these reasons, he prays for allowing the revision petition and to remand the matter to the Family Court for reconsideration.



12. Having heard the arguments of learned counsel for revision petitioner, the points that arise for consideration are:

1. Whether sufficient opportunity was not given to respondent to put forth his contention?
2. Whether acceptance of affidavit evidence of petitioner by the Family Court is erroneous?

13. Finding on point No.1 is in '**Negative**' and point No.2 is in '**Affirmative**' for the following:

REASONS

14. This is the revision petition filed under Section 19(4) of the Family Courts Act, 1984. Hence, the scope of this revision is very limited.

15. The admitted facts of the case are that the petitioner is the mother of respondent and she is aged about 75 years. No material is produced before the Family Court by the respondent to show that petitioner was having



sufficient means to maintain herself. Respondent being the son of petitioner, it is his bounden duty to maintain his mother in her old age. Admittedly, petitioner was doing vegetable vending business, but because of her old age, she could not continue the business and earn income for her livelihood.

16. It is the contention of respondent that the house property, which is standing in his name, was gifted to him by his grandmother. However, the Family Court has discussed about the documents produced by the respondent in minute detail and held that earlier said house property was standing in the name of petitioner-mother and then as per the application of respondent, it was standing in the name of respondent.

17. The petitioner has taken contention in her petition that respondent has caused threat on her and because of his threat; he got the house property from the name of petitioner to his name. Anyway as on today, no



material is produced to show that petitioner owns any house. Admittedly, she is residing in her daughter's house and thus petitioner and respondent are not residing together and respondent is not looking after the welfare of his mother-petitioner.

18. It is the contention of respondent that petitioner has left the house without any sufficient reason. The sufficient reason to live apart from the husband is to be established only by wife. However, that question does not arise in case of petition filed by parents and children. Hence, the arguments of learned counsel for respondent that petitioner herself left the house has no relevance to decide the petition for maintenance.

19. It is the contention of revision petitioner/respondent that he has filed an application to summon his witnesses and even though it was allowed, on the dates of hearing his witnesses became absent and further opportunity was not given to him to produce those



witnesses to prove that he was paying ₹.2,000/- to ₹.3,000/- per month to petitioner through one of those witnesses.

20. If respondent was making some payment to his mother towards her maintenance, then it is always left open for him to establish the said payment and if he establishes the same, then such amount would be deducted from the maintenance amount awarded by the Court. Hence, for that purpose, remanding the matter to the Family Court or permitting the revision petitioner/respondent to lead evidence does not arise. Accordingly, this point No.1 is answered in '**Negative**'.

21. Regarding point No.2 i.e. validity of acceptance of affidavit evidence of the petitioner, for the first time in this revision petition, revision petitioner has raised the point that affidavit evidence was accepted by the Family Court, which is not admissible as per Section 126 of Cr.P.C.



22. In this regard, learned counsel for revision petitioner relied on the judgment of Co-ordinate Bench of this Court in RPFC No.100035/2021 c/w. RPFC No.100084/2022 dated 21.03.2023 and the judgment of Co-ordinate Bench of this Court in the case of *Smt. Sunanda and Another vs. Bharat Naik* reported in *ILR 2011 KAR 1040* (Circuit Bench at Gulbarga).

23. In these two cases, the Co-ordinate Benches of this Court have relied upon the judgment of Division Bench of this Court in ***Gayathri vs. Ramesh*** reported in ***ILR 1993 KAR 1857***, ***Shri Ujwal vs. Bharati and Another*** reported in ***ILR 2018 KAR 3426*** and ***Sri Somashekaraiah vs. Smt.Parvathamma*** reported in ***ILR 2019 KAR 2614***.

24. Except this last judgment of *Somashekaraiah's* case referred supra, all other cases were relied by the Co-ordinate Bench of this Court in RPFC No.340/2011 dated 22.10.2018. In the said case, the provisions of Section 125,



126(2) of Cr.P.C., Sub-Sections (1)(2)(3) of Section 10 of Family Courts Act, 1984 were dealt in detail and also the judgments of Hon'ble Apex Court in ***Iqbal Bano vs. State of U.P. and Another*** reported in **(2007) 6 SCC 785** and ***Badshah vs. Urmila Badshah Godse and Another*** reported in **(2014) 1 SCC 188** and ultimately held that in ***Shri Ujwal's case cited supra***, the judgment of Supreme Court in *Badshah's* case was not referred. Paragraph No.29 in the above said judgment reads as follows:

"29. In ***Shri.Ujwal's*** case relied upon by the respondent's Counsel, the Judgment of Supreme Court in ***Badshah's*** case was not referred. Having regard to the judgment of Hon'ble Supreme Court in ***Badshah's*** case referred to supra Section 10(2) and (3) have to be interpreted to serve the purpose of the Act as aforesaid for giving special protection to the vulnerable groups namely abandoned wife, children and parents. Having regard to the aforesaid Judgments of the Hon'ble Supreme Court, the other judgments of this Court and the other High Courts relied upon by the learned counsel for the respondent, cannot be followed. Under the circumstances, the contention of the respondent that acceptance of the examination-in-chief evidence of the witnesses by the trial Court is illegal is rejected."



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25. Reproduction of paragraphs No.17 and 18 of the above judgment wherein **Badshah's case and Iqbal Bano's cases referred are** relevant. They read as follows:

17. In **Badshah's** case referred to supra while dealing with the proceedings under Section 125 of Cr.P.C. the Hon'ble Supreme Court held as follows :

"13.3. Thirdly, in such cases, **purposive interpretation needs to be given to the provisions of Section 125 Cr.P.C.** While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalized sections of the society. The purpose is to achieve "social justice" which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. **Therefore, it becomes the bounden duty of the courts to advance the cause of the social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society.**

14. Of late, in this very direction, it is emphasized that the courts have to adopt different approaches in **"social justice adjudication", which is also known as "social context adjudication" as mere "adversarial approach" may not be very appropriate. There are number of social justice legislations giving special protection and benefits to vulnerable groups in the society.** Prof. Madhava Menon describes it eloquently :

"It is, therefore, respectfully submitted that 'social context judging' is essentially the application of equality jurisprudence as evolved by Parliament and the Supreme Court in myriad situations presented before courts where unequal parties are pitted in adversarial proceedings and where courts are called upon to dispense equal justice. Apart from the socioeconomic inequalities accentuating the disabilities of the poor in an unequal fight, the adversarial process itself operates to the disadvantage of the weaker party. In such a situation, the Judge has to be



not only sensitive to the inequalities of parties involved but also positively inclined to the weaker party if the imbalance were not to result in miscarriage of justice. This result is achieved by what we call social context judging or social justice adjudication."

15. The provision of maintenance would definitely fall in this category which aims at empowering the destitute and achieving social justice or equality and dignity of the individual. While dealing with cases under this provision, drift in the approach from "adversarial" litigation to social context adjudication is the need of the hour.

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18. The court as the interpreter of law is supposed to supply omissions, correct uncertainties, and harmonise result with justice through a method of free decision – *libre recherche scientifique* i.e. "free scientific research". We are of the opinion that there is a non-rebuttable presumption that the legislature while making a provision like Section 125 Cr.PC, to fulfil its constitutional duty in good faith, had always intended to give relief to the woman becoming "wife" under such circumstances. This approach is particularly needed while deciding the issues relating to gender justice. We already have examples of exemplary efforts in this regard. Journey from Shah Bano to Shabana Bano guaranteeing maintenance rights to Muslim women is a classical example."

(Emphasis supplied)

18. In **Iqbal Banu's** case referred to supra the Hon'ble Supreme Court relying on its earlier judgment in **Vijaykumar Prasad's** case held as follows :

"10. Proceedings under Section 125 CrPC are civil in nature. Even if the Court noticed that there was a divorced woman in the case in question, it was open to it to treat it as a petition under the Act considering the beneficial nature of the legislation. Proceedings under Section 125 CrPC and claims made under the Act are tried by the same court. In *Vijay Kumar Prasad v. State of Bihar* it was held that proceedings under Section 125 Cr.P.C. are civil in nature. It was noted as follows:



"14. The basic distinction between Section 488 of the old Code and Section 126 of the Code is that Section 126 has essentially enlarged the venue of proceedings for maintenance so as to move the place where the wife may be residing on the date of application. The change was thought necessary because of certain observations by the Law Commission, taking note of the fact that often deserted wives are compelled to live with their relatives far away from the place where the husband and wife last resided together. As noted by this Court in several cases, proceedings under Section 125 of the Code are of civil nature. Unlike clauses (b) and (c) of Section 126(1) an application by the father or the mother claiming maintenance has to be filed where the person from whom maintenance is claimed lives."

26. The real intention of incorporating Section 125 in Cr.P.C. and presently Section 144 of BNSS, 2023 is to provide speedy justice to the vulnerable classes i.e. the wife, minor children and parents. That provision cannot be misused by the revision petitioner. When he himself has not objected for taking affidavit evidence and cross-examined the petitioner and he himself also let in the affidavit evidence before the Family Court, he is estopped from saying that the procedure followed by the Family Court is not in accordance with law and for that purpose he cannot pray for remand of the matter to the Family Court.



27. Furthermore, as per Sub-Section (3) of Section 10 of the Family Courts Act, 1984 provides the Family Court to follow its own procedure to arrive at truth of the facts alleged by one party and denied by other party. The purpose of recording evidence is to arrive at truth of the facts, which could be by receiving the evidence by way of affidavit.

28. Learned counsel for the revision petitioner failed to bring to the notice of this Court that by following the procedure in receiving the affidavit evidence of the parties what harm or prejudice was caused to the respondent.

29. In several citations, the Hon'ble Apex Court has clearly held that this provision of maintenance i.e. proceedings under Section 125 of Cr.P.C. and Section 144 of BNSS, 2023 are civil in nature and it is only between the family members and this is the civil right arising out of the family relationship between parties.



30. Having regard to the judgment of Hon'ble Supreme Court in *Badshah's* case referred to supra and Sub-Sections (2) and (3) of Section 10 have to be interpreted to serve the purpose of the Act as aforesaid for giving special protection to the vulnerable groups namely the abandoned parents i.e. aged mother in the present case.

31. In the judgments referred by learned counsel for revision petitioner, as already discussed above, the judgments of Hon'ble Apex Court either in *Iqbal Bano's* case or in *Badshah's* case were not referred or not considered. The principles noted in these judgments of Hon'ble Apex Court clearly and categorically reveal that the purpose for which enactment of Section 125 Cr.P.C. is to be analysed.

32. The revision petitioner has raised this objection only to protract payment of maintenance to his own mother. His contention that he was working under another person as coolie is not established by him. He has produced



certified copies of petition, I.A. and deposition in Crl.Misc.No.257/2018, which was filed by the present petitioner claiming maintenance under Protection of Women from Domestic Violence Act, 2005. The respondent is able-bodied person and it is his primary responsibility to look after his own mother that too when he possessed immovable property.

33. As discussed above, the affidavit evidence given before the Family Court by the petitioner and respondent was accepted. It was not disputed by the revision petitioner. Under these circumstances, he is estopped from claiming remand of the matter on that ground. Accordingly, point No.2 is answered in **'Affirmative'**.

34. The maintenance awarded by the Family Court is only ₹.5,000/- per month that too from January-2022 and not from the date of petition. This meager amount of ₹.5,000/- awarded by the Family Court needs no interference.



35. In view of the above discussion, the impugned order dated 08.01.2025 passed in Crl.Misc.No.428/2019 on the file of I Additional Principal Judge, Family Court, Belagavi is hereby confirmed by dismissing the revision petition.

Sd/-
(GEETHA K.B.)
JUDGE

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List No.: 1 Sl No.: 1