



HC-KAR

NC: 2026:KHC-D:4740
WP No. 100481 of 2025

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 26TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE ASHOK S. KINAGI
WRIT PETITION NO. 100481 OF 2025 (GM-FC)

BETWEEN:

1. SHRI. MOULALI S/O BASHASAB SHIGGAVI
AGE: 23 YEARS, OCC. COOLIE
R/O. RENTED HOUSE AT KARADAGI,
TQ. SAVANUR, DIST. HAVERI-581126

...PETITIONER

(BY SRI. KOLAKAR SAYADAHMED ALLABAKSHI, ADV)

AND:

1. SMT. SEEMBRAN DIVORCED
W/O. MOULALI SHIGGAVI, AGE: 21 YEARS,
OCC: TAILORING & TUITION
AFTER THE SECOND MARRIAGE,
NOW SHE IS RESIDING IN THE HOUSE OF
HER SECOND HUSBUND BY NAME
MOULALI S/O KHADARSAB HARAKONI,
AT KARADAGI, TQ. SAVANUR,
DIST. HAVERI 581126.

...RESPONDENT

(BY SRI. VENKATESH M KHARVI, ADV)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF
CONSTITUTION OF INDIA, PRAYING TO,

- A) ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER
WRIT ORDER OR DIRECTING QUASHING THE ORDER DATED
23/11/2024 PASSED ON I.A. NO.1 I.E. ANNEXURE-P IN CRI. MISE.
NO.47/2021, ON THE FILE OF CIVIL JUDGE AND JMFC, MUNDGOD.

Digitally signed by
MOHANKUMAR B
SHEKHAR
Location: HIGH
COURT OF
KARNATAKA



B) ISSUE SUCH ANY ORDER OR DIRECTION, WHICH THIS HON BLE COURT DEEMS FIT AND NECESSARY UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE.

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI)

1. This writ petition is filed by the petitioner challenging the order passed on I.A. No. 1 dated 23.11.2024 in CrI. Misc. No. 47 of 2021 by the learned Civil Judge and JMFC, Mundgod vide Annexure P.

2. Brief facts, leading rise to the filing of this petition are as follows:

3. It is the case of the petitioner that, the marriage of the petitioner and the respondent was solemnized on 29.05.2020 at Mundgod as per Muslim rituals. After few days of marriage, the relationship between the petitioner and the respondent fettered. The respondent married to one Moulali S/o Khadarsab Harakoni i.e., the second marriage. The respondent filed a suit in O.S. No. 67 of 2021 before the learned civil judge and JMFC



Mundgod for the relief of dissolution of marriage with the petitioner. The petitioner also filed the private complaint in P.C. No. 105 of 2021 for the offences punishable under section 493, 494, 496 R/w 149 of the IPC 1860. Thereafter, a criminal case came to be registered in C.C. No. 48 of 2002. Further, the petitioner filed a criminal petition in Crl. Pet. No. 101825 of 2022 before this Honble court seeking transfer of the said case. Further, this court directed IV JMFC Belagavi to transfer CC No. 48 of 2022 before the II JMFC Belagavi and the said court registered the case in CC No. 1284 of 2022 for the aforementioned offences .

4. The respondent further filed a criminal miscellaneous case in Crl. Misc. No. 47 of 2021 seeking maintenance under section 125 Cr.P.C. against the petitioner herein. Further, the respondent filed I.A. No. 1 seeking for interim maintenance till the disposal of the said case. The trial court allowed the application in I.A. No. 1 vide order dated 23.11.2024 and awarded an interim maintenance of Rs. 2000/ month to the respondent herein from the date of application. Aggrieved by the same, the petitioner filed this writ petition.



5. Heard the arguments of the learned counsel for the petitioner and the learned counsel for the respondent.

6. Learned counsel for the petitioner submits that since the second marriage of the respondent is solemnized with one Moulali S/o Khadarsab Harakoni, she would not be entitled to the maintenance. He submits that, after second marriage , the respondent is leading a peaceful life with her husband, hence the order passed on I.A. No. 1 would not be maintainable. He submits that the suit filed by the respondent seeking dissolution of the marriage has been decreed hence in the eyes of law the respondent is not the wife of the petitioner. He submits that the term wife includes a woman who has been divorced but has not been remarried. He submits that the criminal cases instituted against the respondent are still pending hence the trial court ought not to have passed the impugned order. He submits that the impugned order is arbitrary and erroneous. The trial court without taking into consideration the aforesaid aspects has passed the impugned order. Accordingly, on these grounds prays to allow the petition.



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7. Per contra, learned counsel for the respondent submits that the respondent did not contract second marriage. He submits that the impugned order passed by the trial court is just and proper and do not warrant any interference at the hands of this court. Accordingly, on this ground, he prays to dismiss the petition.

8. Perused the records and considered the submissions of the learned counsel for the parties.

9. It is undisputed that the marriage of the petitioner and the respondent was solemnized on 29.05.2020 at Mundgod as per Muslim rituals. After the solemnization of the marriage, the petitioner and the respondent started residing at Karadagi Village of Belagavi District. After some time the relationship between the petitioner and the respondent was fettered. The respondent filed a suit in O.S. No. 67 of 2021 and obtained the decree of divorce.

10. Admittedly, the petitioner had filed an affidavit dated 05.03.2026 before this court, stating that she has not contracted the second marriage till today with any person. Even otherwise, the fact that the criminal case is pending against the respondent



for contracting the second marriage is not a ground for denial of maintenance. The Hon'ble Apex court in catena of judgments has made it very clear that the applications for the maintenance should be decided independently, without being influenced by the outcome of the other parallel proceedings.

11. The Hon'ble Ape court in the case of ***Mohd. Abdul Samad v The State of Telangana and Ors*** in ***Criminal Appeal No. 2842 of 2024 disposed of on 10.07.2024*** has held that the divorced Muslim women can seek maintenance from the husband under section 125 of the Cr.P.C in addition to other remedies available to her.

12. Further, the trial court considering the aforesaid aspects has rightly passed the impugned order at Annexure P. The trial court considering that there is no clear picture of the occupation of the petitioner herein and his earning, has rightly awarded the interim maintenance of Rs. 2000/ month from the date of application. Admittedly, the respondent has not preferred any petition for enhancement of the interim maintenance. The impugned order passed by the trial court is just and proper.



Hence, I find no grounds to interfere with the impugned order.

Accordingly, I proceed to pass the following order:

ORDER

(i) The writ petition is ***dismissed***.

(ii) Pending IA's, if any, shall stand *disposed of*.

**Sd/-
(ASHOK S. KINAGI)
JUDGE**