



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL REVISION PETITION NO. 200020 OF 2025

(397(Cr.PC)/438(BNSS))

BETWEEN:

1. SMT. RASHMI
W/O RAMALINGAYYA @ RAMESH HIEMATH
AGE: 30 YEARS, OCC: HOMEMAKER
2. SAHANA
D/O RAMALINGAYYA @ RAMESH HIEMATH
AGE: 14 YEARS, OCC: STUDENT
3. SHREYA
D/O RAMALINGAYYA @ RAMESH HIEMATH
AGE: 12 YEARS, OCC: STUDENT
4. SHANKER
S/O RAMALINGAYYA @ RAMESH HIEMATH
AGE: 06 YEARS, OCC: STUDENT

PET. NOS 2 TO 4 ARE UNDER M/G PET NO.1
R/O VILLAGE ARALADINNI, TQ: NIDAGUNDI
NOW R/O VILLAGE KALAGI, TQ: MUDDEBIHAL
DIST: VIJAYAPURA-586 212.

...PETITIONERS

(BY SRI.NANDKISHORE BOOB., ADVOCATE)





AND:

1. RAMALINGAYYA @ RAMESH
S/O SHANKREAYA HIREMATH
AGE: 42 YEARS, OCC: BUSINESS
2. SMT. NEELAMMA
W/O SHANKRAYYA HIREMATH
AGE: 60 YEARS, OCC: HOME MAKER

BOTH ARE R/O VILLAGE ARALADINNI
TQ: NIDAGUNDI, DIST: VIJAYPAURA-586 213.

...RESPONDENTS

(BY SRI.MANVENDRA REDDY., ADVOCATE FOR R1 AND R2)

THIS CRL.RP IS FILED U/S 397 AND 401 OF CR.P.C (OLD) U/S 438 OF BNSS (NEW) PRAYING TO CALL FOR THE RECOREDS OF TRIAL COURT AND ALLOW THIS REVISION PETITION AND SET ASIDE THE ORDER PASSED BY THE HONOURABLE II ADDL. DIST AND SESSIONS JUDGE VIJAYAPURA IN CRIMINAL APPEAL NO.81/2023, DATED 23-11-2024, (ANNEUXRE-A) AND RESTORE THE ORDER PASSED BY THE PRL. CIVIL JUDGE AND JMFC COURT, MUDDEBIHAL IN CRL.MISC NO.18/2023, DATED 17-01-223 IN VIEW OF THE REASONS AS STATED ABOVE.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA



ORAL ORDER

The petitioners have filed this petition under Sections 438 and 442 of BNSS, 2023 (397 and 401 of Cr.P.C) seeking following relief:

"Wherefore, it is most humbly requested that this Hon'ble court may kindly be pleased call for the records of Trial Court and allow this revision petition and set aside the order passed by the Hon'ble II Addl. District and Sessions Judge Vijayapur, in Criminal Appeal No. 81 / 2023, dated 23.11.2024, (Annexure -A), and restore the order passed by the Prl.Civil Judge & JMFC Court, Muddebihal in Crl.Misc.No.18/2023 dated 17.01.2023, in view of the reasons as stated above, in the interest of justice and equity."

2. I have heard the arguments on both sides.

3. The petitioners filed a petition under Section 12 of the Domestic Violence Act, 2005 before the Prl. Civil Judge and JMFC, Muddebihal. The trial Court passed an ex parte order on I.A. Nos. I to III on 17.01.2023.

4. Being aggrieved by this order, the respondent preferred an appeal under Section 29 of the Domestic



Violence Act, 2005, before the Prl. District and Sessions Judge, Vijayapura. The same was made over to the II Addl. District and Sessions Judge, Vijayapura.

5. The Appellate Court passed the following order:

"Appeal filed by the appellant under Section 29 of the Protection of Women from Domestic Violence Act, 2005 is allowed consequently the order passed by the learned JMFC, Muddebihal on I.A.No.I in Crl.Misc.No.18/2023 dated 17.01.2023 is hereby set aside.

The trial Court is directed to consider afresh the interim maintenance application after providing opportunity to the appellant herein."

6. A perusal of the order passed by the trial Court makes it crystal clear that without filing an affidavit of the petitioner as to assets and liabilities, as per the decision of the Hon'ble Apex Court in the case of **Rajnesh v. Neha and another** reported in **(2021) 2 SCC 324**, the trial Court granted the interim order. The Appellate Court observed that the trial Court did not follow the principles of natural justice. The Appellate Court also did not observe



the non-filing of the affidavit by the petitioner as to the assets and liabilities of the petitioner. However, the Appellate Court directed the trial Court to consider the interim application afresh after providing an opportunity to the appellant. Considering the facts and circumstances of the case, I proceed to pass the following:

ORDER

The petition is disposed of with the following observations:

- i. Both parties are directed to appear before the trial Court.
- ii. Both parties are directed to file their assets and liabilities as per the decision of the Hon'ble Apex Court in the case of ***Rajnish v. Neha and another.***
- iii. After filing their affidavits and documents, if any, the trial Court is directed to consider the



interim maintenance application in accordance with law.

- iv. It is made clear that this Court has not expressed any opinion on the merits of the case.
- v. The Registry is directed to send a copy of this order to the trial Court.

Sd/-
(G BASAVARAJA)
JUDGE

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List No.: 1 Sl No.: 36