

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13th DAY OF MARCH, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

REV.PET FAMILY COURT NO.7 OF 2024

BETWEEN:

1. SMT. SHEELA
AGED ABOUT 42 YEARS,
W/O. M. V. NANDAKUMAR,
2. SRI. AKSHAY
AGED ABOUT 21 YEARS,
S/O. M. V. NANDAKUMAR,

BOTH ARE RESIDING AT NO.1776,
E.W.S. YELAHANKA NEW TOWN,
BENGALURU-560 064.

...PETITIONERS

(BY SRI. RAJATH H.V.,ADVOCATE)

AND:

SRI. M. N. NANDAKUMAR
AGED ABOUT 50 YEARS,
S/O. M.N. NAGAKUMARAIAH,
R/AT PADMAVATHI NILAYA,
4TH MAIN ROAD,
VINAYAKA NAGAR,
TUMAKURU-560 040.

ALSO AT:
M/S. SADGURU ENTERPRISES,
SALT MERCHANTS MANDIPET,
TUMKUR-560 040.

...RESPONDENT

(BY SRI. V.B. SIDDARAMAIAH.,ADVOCATE)

THIS RPFC IS FILED UNDER SEC.19(4) OF THE FAMILY COURTS ACT., AGAINST THE ORDER DATED 20.10.2023 PASSED IN CRL.MISC NO.161/2022 ON THE FILE OF I ADDITIONAL PRL. JUDGE, FAMILY COURT, BENGALURU., DISPOSING OF THE PETITION FILED UNDER SEC.125(3) OF CR.P.C., FOR RECOVERY OF MAINTENANCE.

THIS REVISION PETITION FAMILY COURT HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 03.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

The present petition is filed by the petitioners under Section 125(3) of the Code of Criminal Procedure, being aggrieved by the order dated 20.10.2023 passed in Crl.Misc No.161 of 2022 by the I Additional Principal Judge, Family Court at Bengaluru.

Brief facts of the case are as follows:

2. The petitioner No.1 is the legally wedded wife of the respondent. Out of their wedlock, petitioner No.2-son was born. Subsequently, disputes arose between the petitioners and the respondent, and the petitioners filed a petition seeking maintenance of Rs.4,000/- per month for the first petitioner and Rs.2,000/- per month for the second petitioner. Thereafter, the petitioners initiated recovery proceedings by filing Crl. Misc. No.362/2015. During the pendency of the said proceedings, the

respondent paid a sum of Rs.2,50,000/-. The recovery petition came to be dismissed for default. Aggrieved by the same, the respondent preferred RPFC No.195/2015 before the Hon'ble High Court of Karnataka. The said petition was disposed of by order dated 18.09.2020, confirming the order passed in Crl. Misc. No.712/2009. It is further contended that the respondent is carrying on salt shop business under the name M/s. Sadaguru Enterprises at Mandipet, Tumakuru, and is earning sufficient income to pay the maintenance amount. Hence, the petitioners have prayed for issuance of a fine levy warrant against the respondent for recovery of the maintenance amount due. They have also filed a memo of calculation in support of their claim.

3. The petitioners have filed the present petition seeking recovery of maintenance amounting to Rs.5,23,000/- for the period from 21.09.2009 to 21.02.2022. It is not in dispute that this court had earlier passed an order in Crl.Misc. No.712/2009 granting maintenance of Rs.4,000/- p.m., to the 1st petitioner and

Rs.2,000/- to the 2nd petitioner. It is also not in dispute that the recovery proceedings initiated thereafter were dismissed on 06.12.2018 for non taking of steps. It is not in dispute that the respondent challenged the order passed in Crl.Misc.No.712/2009 by filing RPFC No.195/2015 before this Court and by order dated 18.09.2020, said RPFC was disposed of and confirmed the order passed in favour of the petitioners in Crl.Misc. No.712/2009. However, the petitioner No.1 has admitted in her memo of calculation that during the pendency of the RPFC proceedings and the present proceedings, the respondent has paid a total sum of Rs.3,47,000/-. According to the petitioners, balance amount of Rs.5,23,000/- has to be paid by the respondent to the petitioners.

4. The Family Court has observed that the liability of the respondent to pay maintenance is a continuing obligation. However, it has further held that unless the petitioners observing in the recovery proceedings, the entire arrears cannot be claimed at once, and that only

arrears of maintenance for a period of twelve months are recoverable.

5. Learned counsel for the petitioners submits that the Family Court has erroneously held that under Section 125(3) of Cr.P.C., arrears of maintenance are recoverable only for a period of twelve months.

6. Learned counsel submitted that the respondent had preferred an appeal against the order passed in Crl. Misc. No.712/2009 before this Hon'ble Court in RPFC No.195/2015 and had obtained an interim order staying the operation of the said order. Subsequently, RPFC No.195/2015 came to be dismissed on 18.09.2020, confirming the order passed in Crl. Misc. No.712/2009. It is further submitted that the petitioner had earlier filed a petition under Section 125 of Cr.P.C. seeking recovery of maintenance in Crl. Misc. No.362/2015 before the Trial Court, which came to be dismissed for non-prosecution. It is further submitted that during the pendency of RPFC No.195/2015 before this Court and in view of the dismissal of Crl. Misc. No.362/2015, the Trial Court without properly

appreciating these material facts, has partly allowed the petition filed in Crl. Misc. No.161/2022, directing recovery of Rs.5,82,000/- towards arrears of maintenance for the period from 21.09.2009 to 21.02.2022.

7. Learned counsel for the petitioners has relied upon Paragraph 7 of the Judgment in ***Poongodi and Another vs. Thangavel*** reported in **(2013) 10 SCC 618:**

7. The ratio of the decisions in the aforesaid cases squarely applies to the present case. The application dated 5-2-2002 filed by the appellants under Section 125(3) was in continuation of the earlier applications and for subsequent periods of default on the part of the respondent. The first proviso to Section 125(3), therefore did not extinguish or limit the entitlement of the appellants to the maintenance granted by the learned trial court, as has been held by the High Court.

8. It is contended by the learned counsel for the respondent that since respondent has already paid the arrears for twelve months, namely, for the period 2021-2022 and the liability under Section 125(3) of Cr.P.C. is limited to that extent, the present petition

seeking recovery of the remaining arrears of maintenance does not survive for consideration. It is contended that the remaining claim of arrears of maintenance cannot be enforced in the present petition. It is further contended that the petitioners had earlier filed a recovery petition, which came to be dismissed for default. Thereafter, petitioners sought recovery of the entire arrears of maintenance awarded in the original proceedings by filing the present petition.

9. Heard the learned counsel appearing for the petitioners and learned counsel for the respondent.

10. Petitioners have approached the I Addl. Principal Judge, Family Court, Bengaluru in CrI.Misc.No.161/2022 seeking arrears of maintenance of Rs.5,82,000/- for the period 21.09.2009 to 21.02.2022 by way of fine levy warrant Court. Learned Judge of the Family Court has observed that as the arrears of maintenance of twelve months has already been paid by the respondent to the petitioners, the petitioners are not entitled for the remaining arrears of maintenance and disposed off the

Crl.Misc.161/2022. However, liberty was given to the petitioners to file recalling application to restore Crl.Misc.No.362/2015 which was dismissed for default in order to claim unpaid maintenance. The learned Judge of the Family Court has rightly held that the petitioners are entitled for twelve months maintenance only and they are not entitled for remaining maintenance amount. Therefore, there is no illegality or infirmity in the Order dated 20.10.2023 passed in Crl.Misc.No.161/2022 by the I Addl. Principal Judge, Family Court, Bengaluru.

Accordingly, RPFC is ***dismissed.***

**SD/-
(DR.K.MANMADHA RAO)
JUDGE**

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