



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

REV.PET FAMILY COURT NO. 44 OF 2024

BETWEEN:

1. SMT AYESHA TAJ
W/O AJAZ KHAN
AGED ABOUT 35 YEARS
2. SHAHID KHAN
S/O AJAZ KHAN
AGED ABOUT 17 YEARS

SINCE MINOR REPRESENTED BY HIS
MOTHER AYESHA TAJ
THE 1ST PETITIONER AS
NATURAL GUARDIAN

BOTH ARE RESIDING AT
C/O BASHA MASJID 2ND ROAD
SHAHINSHA NAGAR
KOLAR CITY - 563 101.

Digitally signed
by AASEEFA
PARVEEN
Location: HIGH
COURT OF
KARNATAKA

...PETITIONERS

(BY SRI. B. RAVINDRA, ADVOCATE)

AND:

AJAZ KHAN,
S/O AMEER KHAN,
AGED ABOUT 40 YEARS,
R/AT HADIGERE VILLAGE,



ANOOR POST CHINTHAMANI TALUK,
CHIKKABALLAPURA DISTRICT- 563 125.

...RESPONDENT

(BY SRI. SYED ZAHEERUDDIN BAREED, ADVOCATE)

THIS RPFC FILED UNDER SECTION 19(4) OF FAMILY COURT ACT, SEEKING TO SET ASIDE THE ORDER DATED 08.01.2024 PASSED IN CRL. MISC. 124/2022 ON THE FILE OF THE PRINCIPAL JUDGE, FAMILY COURT, KOLAR, PARTLY ALLOWING THE PETITION FILED U/S. 125 OF Cr.P.C. FOR MAINTENANCE.

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

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL ORDER

Heard Sri.B.Ravindra, learned counsel for the petitioners as well as Sri.Syed Zaheeruddin Bareed, learned counsel for the respondent.

2. Challenge in this revision petition is the order that is passed by the Court of Principal Judge, Family Court, Kolar in Crl. Misc.(F.C) No.124/2022 dated 08.01.2024.



3. First petitioner who is the wife and second petitioner who is the son of the respondent filed a petition under Section 125 Cr.P.C seeking the Court to direct respondent to pay them a sum of Rs.10,000/- each per month towards maintenance. Family Court through the impugned order directed respondent to pay petitioner No.2 a sum of Rs.3,000/- per month towards maintenance from the date of filing of petition till the date of order and Rs.4,000/- per month from the date of order till he attains the age of majority. Family Court dismissed the petition filed by the first petitioner herein. Aggrieved by the same, this revision petition is filed.

4. Sri.B.Ravindra, learned counsel for the petitioners submits that Family Court erred in dismissing the petition filed by the first petitioner for grant of maintenance. First petitioner was never in any illicit relationship with any person whatsoever. To avoid payment of maintenance, respondent/husband took a false plea. However, respondent could not establish the plea



taken. But without considering the merits of the matter properly, Family Court dismissed the case of the first petitioner. Learned counsel states that respondent also took a plea that the first petitioner works in a garments company and earns. Learned counsel submits that first petitioner worked for sometime in a garments company that too at the insistence of respondent. However, subsequently she stopped working. No evidence whatsoever was produced by the respondent to show that first petitioner works in a garments company and earns. Therefore, first petitioner is entitled for maintenance. Learned counsel also states that respondent earns Rs.30,000/- per month. Though respondent while he examined himself as RW1 admitted his occupation and stated that he will examine his employer, he did not examine any of the persons who can speak about his employment and earnings. Learned counsel thereby seeks to allow the revision petition.



5. Sri.Syed Zaheeruddin Bareed, learned counsel for respondent on the other hand states that entire dispute arose as first petitioner started maintaining illicit intimacy with the husband of the younger sister of the respondent. Learned counsel states that even RW2 spoke about that relationship. Thus, respondent succeeded in establishing his plea. Furthermore, first petitioner earns by working in a garments company. Family Court made a clear observation that first petitioner has got work experience and therefore she can work and earn. Thus, the Family Court rightly dismissed the petition filed by first petitioner claiming maintenance and thus this revision petition is not maintainable.

6. On going through the relevant material that is brought on record and upon hearing both the learned counsel, it is evident that respondent took two pleas to establish that first petitioner is not entitled for any maintenance as claimed by her. First plea is that first



petitioner maintains illicit intimacy. Second plea is that she works in a garments company.

7. Coming to the first plea, during the course of submission, learned counsel for the respondent stressed that first petitioner maintains illicit intimacy with the husband of the younger sister of the respondent. It is not the case of the respondent that first petitioner maintains illicit intimacy with more than one person. As per his version, only with one person first petitioner maintains such illicit intimacy. However, when the statement of objections filed by the respondent to the application filed by the petitioners under Section 125 Cr.PC are meticulously looked into, this Court finds that respondent at para 5 of his statement of objections contended that first petitioner is in illicit contact with the husband of his elder sister and in that regard, elders of both sides warned her many times. However, at para 6, he took a plea that she maintains such illicit intimacy with the husband of his first younger sister and the same was witnessed by him.



Thus, with which person the first petitioner has got such illicit contact is not clear. During the course of submission, learned counsel for the respondent contended that first petitioner maintains illicit intimacy with a person by name Mukthar Pasha, who is none other than brother-in-law of respondent herein. However, name of that person is not mentioned anywhere in the statement of objections i.e. the pleadings of the respondent. Further more, the respondent who got examined himself as RW1 during the course of cross-examination stated that he is in possession of a video to prove the misconduct of the first petitioner. He stated that he has not produced it before the Court. The reason for non production of that proof which he has got is not mentioned anywhere. Likewise, RW2 during the course of cross-examination stated that respondent showed them a video claiming that there was an illicit intimacy between the first petitioner and Mukthar. But such video was not produced before the Court even thereafter i.e. even after examination of RW2.



8. Taking a plea is not sufficient. It is for the party who takes a specific plea to establish that plea before the Court of law by producing cogent and convincing evidence. In the case on hand, respondent failed to produce any proof to show that first petitioner maintains illicit intimacy with another person. That apart as earlier indicated, respondent in his pleadings made contradictory statements with regard to the person with whom first petitioner is having such illicit intimacy. Therefore, this Court holds that respondent failed to establish his plea with regard to the alleged illicit intimacy of the first petitioner which according to him disentitles the first petitioner from claiming maintenance.

9. Coming to the second plea that is in respect of the occupation and earnings of the first petitioner, respondent failed to produce any proof to show that as on the date of filing of the case for grant of maintenance by the first petitioner she works in the garments company and earns. As per the version of the first petitioner she



worked for some time and thereafter she stopped working. First petitioner who got examined herself as PW1 during the course of cross-examination clearly stated that she worked in a garments company and left the job five years back. No material whatsoever is on record to show that first petitioner works and earns. Family Court at para 21 of the impugned order exhibited its opinion that first petitioner admitted that earlier she used to work and thus it is evident that she is having work experience and she can work and earn and that she completed 10th Standard and therefore she is having earning capacity and thus she is not dependent on the respondent. However, the fact that has to be looked into is, whether the wife who claims maintenance has got sufficient means to maintain herself as on the date of filing of the application for grant of maintenance. The specific case of the first petitioner is that she worked for some time, but she stopped working and that she is looking after her child. No material whatsoever is on record to show that the first petitioner



has got her own source of earnings and that she earns to eke out her livelihood. On the other hand respondent who admitted that he works in Silk Reeling during the course of cross examination when he got examined himself as RW1, has got liability to maintain his wife i.e. the first petitioner. Respondent failed to produce any evidence with regard to his actual earnings. Equally first petitioner failed to establish her contention that respondent earns ₹30,000/- per month. Family Court through the impugned order directed the respondent to pay his son i.e. the second petitioner herein a sum of ₹3,000/- per month from the date of petition till the date of order and thereafter ₹4,000/- per month till he attains the age of majority.

10. The case claiming maintenance was filed in the year 2022 and at that time the age of the second petitioner was 15 years. Therefore, as of now he has attained the age of majority and therefore no liability vests upon the respondent to pay maintenance to the second petitioner. Considering that fact and also the financial



status of the respondent, this Court is of the view that respondent can be directed to pay first petitioner a sum of ₹3,000/- per month from the date of filing of Crl. Misc.(F.C.) No.124/ 2022 for grant of maintenance till this day i.e. 09.06.2026 and thereafter ₹5,000/- per month till the lifetime of first petitioner or till her disentitlement. Therefore, the revision petition is disposed of with the following:

ORDER

- (i) The revision petition is allowed-in-part.
- (ii) The order passed by the Court of Principal Judge, Family Court, Kolar, in Crl. Misc.(F.C.) No.124/2022 dated 08.01.2024 so far as dismissal of petition filed by the first petitioner for grant of maintenance is set aside.
- (iii) First petitioner is liable to be maintained by the respondent to the extent indicated.



- (iv) Respondent is directed to pay first petitioner a sum of ₹3,000/- per month towards maintenance from the date of filing of Crl. Misc.(F.C.) No.124/2022 till the date of this order i.e. 09.06.2026.
- (v) Respondent shall pay first petitioner a sum of ₹5,000 per month towards maintenance from the date of this order i.e. from 09.06.2026 till the lifetime of first petitioner or till her disentitlement.
- (vi) Respondent is directed to clear all arrears within a period of three months.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

NS/AP
CT:TSM
List No.: 1 SI No.: 38