



CNR: KAHC010383332026

NC: 2026:KHC:49817
WP No. 17690 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 17690 OF 2026 (GM-FC)

BETWEEN:

SRI.MADEGOWDA
S/O BOREGOWDA,
AGED ABOUT 48 YEARS,
R/AT MOGARAHALLI MANTI,
BELAGOLA HOBLI,
SRIRANGAPATTANA TALUK,
MANDYA DISTRICT -570 020

...PETITIONER

(BY SRI. RUDRAPPA P., ADVOCATE)

AND:

1. SMT.CHAITHRA N.,
W/O MADEGOWDA,
AGED ABOUT 32 YEARS,
R/AT CHIKKEGOWDANAHUNDI VILLAGE,
VARUN HOBLI, HADAJANA POST,
MYSURU-570 020

2. KUMARI VIDYA M.,
D/O MADEGOWDA,
AGED ABOUT 11 YEARS,
MINOR REPRESENTED BY HER
NATURAL GUARDIAN MOTHER
SMT. CHAITHRA N.,
R/AT CHIKKEGOWDANAHUNDI VILLAGE,
VARUN HOBLI, HADAJANA POST,
MYSURU-570 020.

...RESPONDENTS

(BY SRI. SUYOG SATHYA, ADVOCATE)



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THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI TO QUASH THE IMPUGNED ORDER ON I.A. UNDER SECTION-125 OF THE CODE OF CRIMINAL PROCEDURE PASSED BY THE HON'BLE PRINCIPAL FAMILY COURT MYSURU IN CRL. MISC. NO. 753/2025 DATED 05/01/2026 THE SAME IS MARKED AT ANNEXURE-G.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order passed on I.A.No.1 in Crl.Misc. No.753/2025 dated 05.01.2026 by the Principal Judge, Family Court, Mysuru, the husband is before this Court.

2. The parties are referred to as husband and wife for the sake of convenience.

3. The respondent/wife herein has filed an application under Section 144(1) of BNSS, 2023 seeking an interim maintenance from the petitioner/husband. According to the wife, the marriage was performed with the petitioner on



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11.10.2013. When she became pregnant, she went to her parents' house in the month of June 2015 and gave birth to a female child on 27.02.2015. After that she was not permitted to join the husband. She has to take care of herself and the child; she had no income of her own, she sought maintenance of an amount of Rs.30,000/- per month and litigations expenses of Rs.50,000/- from the husband. According to her, the husband is earning daily income of Rs.2,000/- by working as a mason and also getting rental income of Rs.60,000/- by letting out his house.

4. The petitioner/husband has filed his objections. He has denied the fact that he has treated the wife in a cruel manner. It is stated that the wife's parents received Rs.2.00 lakh from him as 'vadhu dakshina'; she lived with him for only 1½ months and thereafter left the matrimonial home, went to her parents' house, and during the panchayath held by the elders she had put a condition that only if the house property is registered in her name she would lead marital life with the husband, and therefore he lodged a complaint on 07.04.2014 against her. Accordingly, she gave a statement before the police, and after



many years she came up with the present petition seeking maintenance on false grounds. She has also sought divorce against the husband in MC.No.861/2025. It is the case that he is suffering from many age-related ailments and is unable to do any work.

5. It is stated that earlier she had agreed to marry one Mahadev, stayed in his house for a few months, and thereafter lodged a complaint against him at Bannur Police Station, which she later withdrew after receiving a sum of Rs.2,50,000/- from him. In this regard, the police had also recorded her statement. It is the case that she has a habit of coercing many persons and extorting money from them.

6. The Family Court, by the impugned order, has granted maintenance of Rs.6,000/- per month to both petitioners from the date of application, pending disposal of the main petition. The Family Court, while passing the order, observed that the petitioner/husband married the applicant, had children from his first wife, and that the daughter/Respondent No.2, herein born to him through the applicant, has been categorically admitted by him. Under such circumstances, when he has not disputed



his marital status with the applicant or his paternity as regards the second respondent herein, he cannot seek discharge from the legal responsibility to maintain them. Although it is contended that, without any valid reasons, the applicant herself has deserted him, even if this disputed issue has to be adjudicated and decided only when the parties face the trial, the Family Court had granted the maintenance.

7. Learned counsel appearing for the petitioner submits that under Section 144(4) of the BNSS, when a specific contention is raised that without a reasonable cause she left the matrimonial home and in fact she lived with someone else and all these aspects have to be dealt with by the Family Court. But without giving any finding on the said aspects, the Family Court had granted maintenance. Learned counsel further submits that it is contrary to the law laid down by the Hon'ble Apex Court in the case of ***Himanshu Chordia Vs. State of Rajasthan and another***¹. Learned counsel has relied on paragraph Nos.9 to 12 and 17 to 20, which read as under:

¹ 2026 INSC 778



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"9. As already reproduced supra, a perusal of the clause suggests maintenance shall be denied if the wife lives in adultery or without any sufficient reason refuses to live with her husband or is living separately by mutual consent. The text of the statute itself points to the answer to the question raised in this appeal. Sub-section (4) of Section 125 provides that if adultery is established, the wife claiming maintenance would not be entitled to the same as an interim measure and therefore, obviously, not even as a final measure. Sub-section (5) thereof makes it even more obvious.

10. Once a petition under Section 125(1) is made before the concerned court, and the person from whom maintenance is sought makes an application under Section 125(4), determination thereof, would depend upon the facts and circumstances of each case; as also the kind of evidence presented in reference to application filed under Section 125(4); whether the interim maintenance so granted to the applicant under the proviso to sub-section (1) of Section 125, would continue to obtain or not.

11. The second proviso to Section 125(1) makes provision for interim maintenance and expenses of proceedings. It is clear therefore that the intent is for the maintenance allowance to reach the applicant expeditiously. It cannot be said as such, that once an application under the latter Section 125(4) has been made, even the payment of interim maintenance in the interregnum, till such application is decided, will be stopped. If it is concluded that the said application has merit, then the interim order would be vacated. If it is concluded otherwise, the interim order would be confirmed/modified. To put it plainly, the pendency of a 125(4) application would not per se bar the applicant from receiving interim maintenance on the ground that the said sub-section uses the word 'interim maintenance' also. If such a view is



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accepted, the payment of maintenance would be perpetually contingent on the decision in 125(4), which may, given the nature of the allegation, take considerable time in reaching its final conclusion.

12. Put clearly, it has to be observed that an application for maintenance is stage one of the proceedings wherein by virtue of the second proviso, the court may, circumstances permitting, award interim maintenance. The application under Section 125(4) is stage two and it is the decision in stage two which will determine whether the application reaches the final stage i.e. order of maintenance under Section 125(1) or not. What is provided by Section 125(5) accounts for a situation that is subsequent to final order having been made in stage three.

17. At this stage, a segue into how an allegation of adultery can be/is to be proved may be warranted. Evidence is of two types, direct and circumstantial. The former is the kind that establishes, on the face of it, an allegation.

18. It is obvious that when a case is sought to be proved by circumstantial evidence, it requires a detailed study of the circumstances presented. The evidence furnished in support thereof, including verification, particularly when the evidence in question is electronic, etc. These procedures are bound to take time. Since the stipulation in the Section 125 (4) is that if adultery is proved, the wife would neither be entitled to interim nor final maintenance, we are of the view that if a husband files an application under Section 125(4) and is, at the first instance, able to establish the charge through evidence ex facie, then only, there can be said to be a bar to interim maintenance.

19. The courts below clearly fell into error to hold that it was only at the stage of final



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adjudication that such a question could be decided. This view would render otiose what has been provided in the statute.

20. Applying this understanding to the record, in order to establish that the Respondent No. 2 was living in adultery, the appellant has placed a number of photographs and other evidence. This evidence is obviously electronic in nature. The question that the court must consider at the stage of interim maintenance is whether the evidence so presented establishes adultery. It is obviously open for the Respondent No. 2 to dispute the correctness and legality of the evidence presented, which would then have to be considered by the Court.

In that view of the matter, we are of the view that the Trial Court ought to have decided the appellant's application under Section 125(4). It was incorrect for them to have observed that the appellant's application could not have been decided prior to the final adjudication of the application filed by the wife. The second proviso to sub-section (1) of Section 125 provides for interim maintenance; and as such, the logical flow of proceedings would be that once the basic facts are established, an order is made for interim maintenance, and that would continue to operate till the application under Section 125 (4) is decided conclusively. This is in view of the beneficent nature of the provision. This question is accordingly decided. Consequently, the matter stands remanded to the Trial Court to make a decision on the merits since they had in this instance dismissed the application on the threshold. However, the matter does not end there."

It is submitted that all these issues can be decided by the Family Court at the interlocutory stage. Learned counsel



submits that the Family Court without considering all these aspects has granted maintenance.

8. Learned counsel appearing for the respondent/wife submits that the Family Court has granted a meager amount of Rs.6,000/- to the wife and the child. Further, the father has a responsibility to take care of the wife and the children. With regard to the other contentions, Family Court has rightly held that it has to be decided at the time of trial and not at this stage.

9. Having heard the learned counsel on either side, perused the material on record. In light of the submissions made by both the parties, the husband is not disputing the paternity of the second respondent herein. However, according to him, the wife had left him without a reasonable cause and also certain allegations are made on her that she was living with somebody and she extracted money from him. His case falls under 144(4) of the BNSS. In the judgment referred supra, the Hon'ble Apex Court has held that that issue goes to the root of the matter and the Court has to consider the same even at the stage of interlocutory application. Admittedly in this case all



those aspects are not considered by the Family Court. At the same time, this court is conscious of the fact that interim maintenance is required for the maintenance of the child. The respondent/wife has not questioned the said order passed by the Family Court. In those circumstances, this Court is of the view that interim maintenance granted shall be restricted to the child and as far as the mother's entitlement is concerned, the Family Court can consider the same in the main application. In that view of the matter, this Court is passing the following:

ORDER

- i. The order passed on I.A.No.1 in Crl.Misc. No.753/2025 dated 05.01.2026 by the Principal Judge, Family Court, Mysuru, is **modified** and the maintenance of Rs.6,000/- is restricted to the daughter, i.e., 2nd respondent herein.
- i. The Family Court shall consider the contentions of the petitioners with regard to the maintenance to be granted to the wife in the light of the principles laid down by the Apex Court in **Himanshu Chordia's** case referred *supra*.



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- ii. This Court has not made any observations on the entitlement of the wife. The Court has only directed the Family Court to consider in the light of the judgment of the Apex Court.
- iii. All pending I.As in the petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

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List No.: 1 Sl No.: 41
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