



CNR: KAHC010399792025

NC: 2026:KHC:36493
RPFC No. 168 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

REV.PET FAMILY COURT NO.168 OF 2025

BETWEEN:

SRI. SURESH ALIAS
SURESH KIRAN BABU,
S/O LATE GOVINDAPPA
AGED ABOUT 44 YEARS,
R/O KUMBARAHALLI VILLAGE
KASABA HOBLI,
KOLAR TALUK - 563 101.

...PETITIONER

(BY SRI. BHASKAR C.R.,ADVOCATE)

AND:

1. SMT.ANKITHA ALIAS N.NETHRAVATHI
AGED ABOUT 39 YEARS
W/O SURESH
D/O D.V.NANJUNDAPPA
2. MASTER HANEESH
S/O SURESH
AGED ABOUT 15 YEARS
3. MASTER ABHIRAM
S/O SURESH
AGED 10 YEARS

Digitally signed
by G
SHREERAKSHA
Location: HIGH
COURT OF
KARNATAKA





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PETITIONERS NOS.2 TO 3 ARE BEING
MINORS & REPRESENTED BY THEIR MOTHER
WHO IS THE 1ST PETITIONER

ALL ARE RESIDENTS OF
KUMBARAHALLI VILLAGE
KASABA HOBLI,
KOLAR TALUK.

EARLIER ADDRESS
RESIDENT OF NO.52-C.K.PALYA
SAKALAVARA POST,
BANNERGHATTA ROAD,
BANGALORE RURAL -560 083.

...RESPONDENTS

(VIDE ORDER DATED 18/03/2026,
NOTICE TO R1 IS HELD SUFFICIENT,
R2 AND R3 ARE MINORS REPRESENTED BY R1)

THIS RPFC IS FILED UNDER SEC.19(4) OF THE
FAMILY COURTS ACT., AGAINST THE ORDER DATED
7.01.2025 PASSED IN CRL. MISC(FC) NO.115/2020 ON
THE FILE OF PRL. JUDGE, FAMILY COURT, KOLAR., PARTLY
ALLOWING THE PETITION FILED UNDER SEC.125 OF
Cr.P.C., FOR MAINTENANCE.

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

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



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ORAL JUDGMENT

This Revision Petition is filed under Section 19(4) of the Family Courts Act, 1984, seeking to set aside the order dated 07-01-2025 passed by the Principal Judge, Family Court, Kolar, in Crl.Misc.(FC)No.115/2020. By the impugned order, the Family Court partly allowed the maintenance petition filed by the respondents under Section 125 of the Cr.P.C., directing the petitioner to pay a monthly maintenance of Rs.5,000/- to Respondent No. 1 and Rs.3,000/- each to Respondent Nos. 2 and 3.

2. The petitioner herein is the husband, who was the respondent before the Family Court. The respondents herein are the wife and minor children of the petitioner.

3. For convenience of reference, the parties herein are referred to as per their ranking before this court.

4. The facts leading to this petition are that the petitioner and respondent No. 1 were married on 01-03-2009 at Guttahalli Temple, Kolar, and subsequently were



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residing at Kumbarahalli Village. Out of the wedlock, two male children - respondent Nos. 2 and 3, were born. The Respondents allege that the matrimonial relationship soured due to demands for additional dowry and physical harassment, eventually leading to their desertion by the Petitioner, who failed to provide any financial support, despite having sufficient means.

5. In the proceedings before the Family Court, the Petitioner contested the claim on three primary grounds. Firstly, he alleged that the marriage was void *ab initio* as Respondent No. 1 had a subsisting marriage with one Sri Nagaraj at the time of their wedding. Secondly, he categorically disputed the paternity of the two minor children. Thirdly, he pleaded financial incapacity, stating he was a part-time driver with meager earnings and has the responsibility of caring his aged parents.

6. Upon a comprehensive review of the evidence, the Family Court concluded that the Petitioner had willfully



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neglected to maintain his family. The Court below placed reliance on documentary evidence, including birth certificates and government-issued identification such as Aadhaar and Ration cards, which consistently identified the Petitioner as the father. Furthermore, the Court drew an adverse inference against the Petitioner for his refusal to undergo a DNA test to substantiate his denial of paternity. Accordingly, the Family Court passed the impugned order.

7. In this revision, the Petitioner reiterates that the Family Court erred in its appreciation of the evidence. He contends that Respondent No. 1 does not qualify as a "wife" under Section 125 of the Cr.P.C. due to the alleged prior marriage. He further argues that the maintenance quantum of Rs.11,000/- awarded by the Family Court, is disproportionate to his actual income and that the Family court failed to consider the inconsistencies in the testimony of Respondent No. 1 regarding their period of separation.



8. It is a well-settled principle that the revisionary jurisdiction of this Court under Section 19(4) of the Family Courts Act is limited. This Court does not sit as a Court of Appeal to re-appreciate facts unless the findings of the lower court are shown to be perverse, illegal or suffer from a jurisdictional error. The primary objective of Section 125 Cr.P.C. is to provide a summary remedy to prevent vagrancy and destitution.

9. Regarding the validity of the marriage, the Hon'ble Supreme Court in ***Kamala vs. M.R. Mohan Kumar*** reported in ***2019 (11) SCC 491*** has clarified that strict proof of marriage is not a prerequisite for maintenance in summary proceedings. Given that the Petitioner admitted to the marriage ceremony and a substantial period of cohabitation, the burden was on him to prove a legally subsisting prior marriage of Respondent No. 1. Having failed to produce a marriage decree or examine the alleged first husband, the Petitioner cannot



avoid his liability on this ground in a maintenance proceeding.

10. On the issue of paternity, the Petitioner's refusal to undergo DNA testing is a significant factor indicating a strong presumption of legitimacy for children born during a valid marriage. The Respondents produced multiple public documents affirming the Petitioner's parentage. In the absence of "non-access" evidence coupled with the Petitioner's refusal to avail scientific testing, the Family Court was justified in affirming his parental status.

11. Be that as it may, it is the submission of the learned counsel for the petitioner that respondent No.1 - wife has means to take care of her, as she is employed. In this petition, I.A.No.1/2026 is filed under Section 91 of the CPC read with Section 94 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking necessary direction to the Dean Cum Director of M/s. R.L.Jalappa Hospital and



Research Centre, Tamaka, Kolar to produce the appointment letter, Salary certificate and Bank Account Details of the respondent - wife, as the same are required to consider her earning. Therefore, accepting the reasons stated in the application as also in the light of decision of Hon'ble Supreme Court in the case of ***Rajnesh v. Neha and another*** reported in ***(2021) 2 SCC 324***, wherein it is held with regard to consideration of affidavits of disclosure of assets and liabilities, determination of financial capacity, and other relevant parameters governing grant of interim maintenance, while considering the case of awarding maintenance, I.A.No.1/2026 is allowed. Accordingly, the matter requires to be remitted back to the Family Court for consideration afresh. In the result, I pass the following:-

ORDER

- (i). The Revision Petition is hereby ***allowed and remanded*** back to the Family Court.



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(ii). The order passed by the Principal Judge, Family Court, Kolar, in Crl.Misc.(FC)No. 115/2020 dated 07-01-2025 is ***set aside.***

(iii). I.A.No.1/2026 seeking production of additional documents also be transmitted to the Family Court for consideration.

(iv). The Family Court, after considering the matter afresh, is directed to pass appropriate orders as expeditiously as possible.

(v). No order as to costs.

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

MH/-
List No.: 1 Sl No.: 3