

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

REV.PET FAMILY COURT NO.50 OF 2018

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BETWEEN:

SMT. B. C. SUSHEELA
W/O. J. KARIYAPPA,
AGED ABOUT 47 YEARS,
RESIDING AT NO.19/B,
WEAVERS COLONY,
13TH MAIN ROAD,
SRINAGAR, PIPELINE,
BANGALORE-560 050.

...PETITIONER

(BY SRI. RAJESH K.S.,ADVOCATE)

AND:

SRI. J. KARIYAPPA
S/O. LATE JAVARAIAH,
AGED ABOUT 52 YEARS,
WORKING AS AN OPERATOR,
ELECTROPROCELAINS DIVISION,
STAFF NO. 03819884,
BHEL PROFESSOR,
C.N.R. RAO CIRCLE,
OPPOSITE INDIAN INSTITUTE OF SCIENCE,
MALLESWARAM,
BANGALORE-560 012.

...RESPONDENT

(BY SRI. B. KESHAVA MURTHY, ADVOCATE (ABSENT))

THIS RPFC IS FILED UNDER SEC.19(4) OF THE FAMILY COURT ACT,1984 AGAINST THE ORDER DATED 30.1.2018 PASSED IN C.MISC NO.204/2016 ON THE FILE OF THE II ADDL. PRL. JUDGE, FAMILY COURT, BANGALORE, DISMISSING THE PETITION FILED UNDER SEC.125 OF CR.P.C FOR MAINTENANCE.

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by
VIJAYALAKSHMI
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Location: HIGH
COURT OF
KARNATAKA



THIS REVISION PETITION FAMILY COURT HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06.04.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

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

CAV ORDER

This RPFC is filed under Section 19(4) of the Family Courts Act, 1984, by the petitioner/wife against the Judgment dated 30.01.2018 passed by the Court of the II Additional Principal Judge, Family Court, Bengaluru, in C.Misc.No.204/2026, dismissing the petition praying for grant of maintenance.

2. Petitioner before this Court as well as Family Court is the wife and respondent before this Court as well as Family Court is the husband.

Brief facts of the case are as under:

3. The petitioner is the wife and respondent is the husband and the marriage between the petitioner and respondent was solemnized as per Hindu rites and customs on 13th March 1985 at Raya Raya Kollam Venkata Rao Kalyana Mantapa, Pampa Maha Kavi Road,

Shankarapuram, Bangalore. The marriage between the petitioner and the respondent is an arranged marriage. They have three children from the wedlock. The petitioner's parents have given jewels and cash to the respondent at the time of marriage.

4. The petitioner submits that from the very beginning of the marriage, the respondent was highly suspicious and demanding by nature. That he was a drunkard and using abusive language. The respondent was always unhappy and did not take care of children from their birth. The petitioner and three children were staying in petitioner's parents' house and her parents provided for their necessities and they completed their education with the support of her parents. It is submitted that even though respondent got salary of Rs.74,000/- p.m., he neglected to maintain his wife and children. That the respondent has executed a gift deed in the year 2004 in favour of the petitioner with regard to his property. That unable to bear the torture by respondent, the petitioner has given complaint before the police in the

year 2010 and after conciliation, the respondent has given statement that he will not cause any harassment in future, but continued his bad vices. That Respondent left home during March 2016. The petitioner's mother has borne the part marriage expenses of the petitioner's daughters. The petitioner by raising loan has solemnized the marriage of her daughters and the respondent has not paid any amount.

5. The respondent in his objection statement has stated that he was residing in the house of petitioner's parents and taking care of wife and children and their expenses. That they started abusing and assaulting the petitioner, at the instigation of parents of petitioner, after the marriage of their daughters and drove him out of their house. It is contended that they inflicted bleeding injuries and he became deaf. Thereafter, the respondent neglected her husband and refused to cohabit with him.

6. The petitioner herein had filed C.Misc.No.204/2016 on the file of the II Additional

Principal Judge, Family Court, Bangalore under section 125 of Code of Criminal Procedure for the relief of granting maintenance of Rs.35,000/- to the petitioner and other consequential reliefs. The petitioner is examined as PW-1 and got marked Ex.P1 to Ex.P5 and closed her side and the respondent was examined as RW-1 and got marked Ex.R1 to Ex. R4.

7. Learned counsel for the petitioner submits that the Family Court without considering the evidence and material on record has erroneously dismissed the petition filed by the petitioner. It is contended that from the very beginning of the marriage, the respondent was highly suspicious and demanding by nature. That he was a drunkard and using abusive language. The respondent was always unhappy and did not take care of children from their birth. The petitioner and three children were staying in petitioner's parents' house and her parents provided for their necessities and they completed their education with the support of her parents. It is submitted that even though respondent got salary of Rs.74,000/-

p.m., he neglected to maintain his wife and children. Unable to bear the torture by respondent, the petitioner has given complaint before the police in the year 2010 and after conciliation, the respondent has given statement that he will not cause any harassment in future, but continued his bad vices. Respondent left home during March 2016. The petitioner's mother has borne the part marriage expenses of the petitioner's daughters. The petitioner by raising loan has solemnized the marriage of her daughters and the respondent has not paid any amount.

8. It is submitted by the learned counsel for the respondent that he was residing in the house of petitioner's parents and taking care of them and their expenses. That he was taking care of his two daughters and one son. That he spent money for their education and other expenses. He also contributed for his two daughters' marriage. That thereafter, petitioner and her parents started abusing and assaulted the respondent after the marriage of their daughters and drove him out

of their house. They abused him inflicted bleeding injuries and he became deaf. Thereafter, the petitioner neglected her husband with the instigation of her parents and refused to cohabit with him. It is further submitted that his health condition is not good and he has cardio-related issues. That he is unable to provide any maintenance. Though he has contended that he had gifted a property to his wife by gift deed dated 02.12.2004, he has admitted that a case in O.S.No.2885/2007 is filed by Gundamma and Parvathamma and the XXII Addl. City Civil and Sessions Judge, Bengaluru (CCH No.7). It is submitted that in the beginning of their marriage, they were residing in the house of the respondent. Thereafter, they started residing in the house of parents of the petitioner. It is further submitted by respondent that the allegations against him are false and are not proved before the Family Court also. Therefore, the Family Court has rightly rejected the petition filed by the petitioner.

9. Heard the learned counsel for the petitioner. Counsel for respondent is absent. Perused the records.

10. It is observed by the Family Court that the petitioner and three children were staying in petitioner's parents' house and her parents provided for their necessities and they completed their education with the support of her parents. That even though respondent got salary of Rs.74,000/- p.m., he neglected to maintain his wife and children. The respondent-husband contended that he has executed a gift deed dated 02.12.2004. The husband has admitted that a case has been filed by Gundamma and Parvathamma. It has been observed from the records that suit in O.S.No.2885/2007 is filed by Gundamma and Parvathamma and the XXII Addl. City Civil and Sessions Judge, Bengaluru (CCH No.7). From the records, it has been observed that the suit has been decreed and $1/5^{\text{th}}$ share each has been ordered to be given to Gundamma and Parvathamma. Further, it has been held that the gift deed dated 02.12.2004 is not binding on the plaintiffs. Further, it is observed that

unable to bear the torture by respondent, the petitioner has given complaint before the police in the year 2010 and after conciliation, the respondent has given statement that he will not cause any harassment in future and compromise was entered between them. That the Respondent left home during March 2016 and it is not elicited in cross-examination whether the petitioner had any impediment to issue notice to the respondent calling upon him to join her. It is observed by Family Court that when she admitted that they were residing together till the marriage of their daughter, she has to explain the reason why he left the house, but in the petition, it is stated that he left her when they were residing in her parents' house. Further, it is observed in the impugned Judgment that in so far as allegations that the respondent was drunkard, man of uncertain temperament, he used to abuse her in foul language and beat her, there is no cross-examination of respondent on this point and the allegation against respondent cannot be accepted. That even if there was any harassment, she should have taken

steps at the earliest point of time, but she has not taken any steps for 13 years even though they are residing separately. Thus, the Family Court observed that when the averments in the petition are falsified by her own evidence that the respondent left the house without any reason, the petitioner failed to prove that respondent neglected to maintain her or harassed her.

11. It has been contended by petitioner-wife that the respondent-husband has neglected to maintain wife and children and did not care to contribute even financially for the marriage of daughters. Further, it is contended that father has also not contributed for education of son and now, he is working as an Auto Driver. It has been admitted by husband that wife was living in her parents' house along with her children and husband was also living in in-law's house. Even though husband pleaded that wife and her parents drove him out of the house, it has not been proved.

12. It would be relevant to refer to the following citations on Hon'ble Supreme Court regarding the delay on the part of the wife in approaching the Court claiming monthly maintenance:

i) Rajathi v. C.Ganesan (AIR 1999 SC 2374)

In this case, it has been held that proceedings under Section 125 of Cr.P.C., are of summary in nature. This Section is meant to provide immediate relief to the wife, minor children and parents, who are unable to maintain themselves. This Section is enacted on the premise that it is obligation of the husband to maintain his wife, children and parents. It will, therefore, be for him to show that he has no sufficient means to discharge his obligation and that he did not neglect or refuse to maintain them or any one of them.

Statement of the wife that she is unable to maintain herself would be enough and it would be for the husband to prove otherwise.

*Rather in a case under Section 125 of the Code trial court is to take a prima facie view of the matter and it is not necessary for the court to go into the matrimonial disputes between the parties in detail.***(emphasis supplied)**

ii) Bhuwan Mohan Singh v. Meena and others (2015)6 SCC 353)

In this case, it has been held that, in fact, it is the sacrosanct duty to render the financial support even if the husband is required to earn money with physical labour, if he is able-bodied. There is no escape route unless there is an order from the court that the wife is not entitled to get maintenance from the husband on any legally permissible grounds.

The dominant purpose behind the benevolent provisions contained in Section 125 clearly is that the wife, child and

parents should not be left in a helpless state of distress, destitution and starvation.

The wife sustained herself as far as she could in the state for a period of nine years. The circumstances, in our considered opinion, required grant of maintenance from the date of application and by so granting the High Court has not committed any legal infirmity.

iii) Makarchand Gauli v. Smt. Leelabai Gauli and Anr. (2007(3) MPHT 520)

10. Thus, this provision is for grant of maintenance to the wives who are unable to maintain themselves. So the order can be passed when it is proved that wife is unable to maintain herself. The aims and object of Section 125 are crystal clear and the ingredient when application can be allowed is that wife is unable to maintain herself and her husband has 'sufficient means' and is willfully neglecting to maintain her. Similarly this provision is applicable to children and parents. What is required to be seen by the Magistrate is whether wife, parents or children are unable to maintain themselves. No period of limitation is prescribed in the Code. Inordinate delay in filing the application will not be a ground to reject the application as cause of action accrues to the applicant everyday when person having sufficient means neglects or refuses to maintain his wife, parents or children.

11. Division Bench of this Court in Nanhi Bai v. Netram 2001 (3) MPLJ 170; 2001(4) M.P.H.T. 405 (DB), has held in Para 28 of the judgment that Section 125 of the Code is a measure of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution. It is held in Para 28 as under:

28. It cannot be disputed or denied that Section 125, Criminal Procedure Code is a measure of social justice and specially enacted to protect women and children and falls within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution. There is no doubt that sections of words with social functions to fulfil. The brooding presence of the constitutional empathy for the weaker sections like women and

children must inform interpretation if it has to have social relevance, without doing annihilation to the object and plain language used in Section 125(3). Criminal Procedure Code.

12. This question came up for consideration before the Division Bench of Andhra Pradesh High Court in the case of Gotta Seetharamulu v. Gotta Rathanamma (supra). In this case it is specifically held that unless the restrictions mentioned in Sub-section (4) of Section 125 of the Code are proved by the husband, the applicant will have a right to claim maintenance. Mere delay on the part of wife, parents or children is not sufficient to hold that the applicants have waived their right. We may clarify that there is no waiver against the statutory right.

13.xxx

14.xxx

15.xxx

16. Considering the spirit and intention of the legislature we hold that there is no peri limitation to entertain the application under Section 125(1) of the Code. Application cans thrown out at the threshold. If husband, son of father neglects or refuses to maintain their parents or children respectively, the application will not be thrown at the threshold unless the husband is able to prove the grounds mentioned under Sub-section (4) of Section 125 of the Code. Code nowhere provides for rejecting the application on the ground of delay. With due respect, we hold that the earlier judgments have not laid down the correct law and the question is answered as under:

that the application for maintenance after inordinate delay is maintainable and it cannot be thrown out after the applicant proves that he or she, as the case may be, is not in the position to maintain himself or herself.

13. Even though both the parties have not been examined and cross-examined properly by the respective

counsels and there are certain disparities in the examination and cross-examination of the parties, and there is no valid proof regarding the rebuttal evidence of the parties, marriage between both the parties and that they are living separately has been admitted. However, respondent-husband was working in BHEL and would have retired by this time.

14. Be that as it may, referring to the Hon'ble Supreme Court ruling *supra*, it has been held that mere delay in approaching the Court for maintenance does not disentitle wife from claiming maintenance. Mere delay on the part of wife, parents or children is not sufficient to hold that the applicants have waived their right. It has been clarified that there is no waiver against the statutory right. Considering the cost of living for sustenance and medical expenses, it would be just and reasonable to award a sum of Rs.15,000/- to the petitioner-wife towards monthly maintenance.

15. In the result, the following order is passed:

- i) RPFC filed by the petitioner is ***allowed.***
- ii) Judgment dated 30.01.2018 passed by the Court of the II Additional Principal Judge, Family Court, Bengaluru, in C.Misc.No.204/2026 is ***set aside.***
- iii) The respondent-husband shall pay monthly maintenance of Rs.15,000/- to the petitioner-wife from the date of petition till her lifetime.
- iv) Arrears of maintenance shall be paid by husband to wife within a period of two months from the date of receipt of this order.
- iv) No order as to costs.

Pending I.As if any, shall stand disposed of.

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

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