

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2026

R

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

REV.PET FAMILY COURT NO.191 OF 2024

BETWEEN:

1. SMT. SAVITHA S @ PARVATHI
W/O C.T DASAPPA
D/O SIDDALINGAIAH
40 YEARS
2. SRI. ARYA.D.
AGED 12 YEARS,
S/O C.T. DASAPPA,
3. SRI. MANJUNATHA.D,
AGED 10 YEARS,
S/O C.T. DASAPPA,

PETITIONERS 2 AND 3 ARE MINORS
REP. BY THEIR NATURAL GUARDIAN
MOTHER SMT. SAVITHA.S. @ PARVATHI,
PETITIONER NO.1.

Digitally signed
by
VIJAYAKSHMI
B N

Location: HIGH
COURT OF
KARNATAKA

ALL ARE RESIDING AT
11TH 'A' CROSS, 80 FEET ROAD,
MAHALAKSHMINAGAR,
BATAWADI,
TUMAKURU-572 101.

...PETITIONERS

(BY SRI. JAYANNA G.R., ADVOCATE)

AND:

SRI. C.T. DASAPPA
S/O LATE YAJAMAN THIMMAPPA
AGED 42 YEARS
WORKING AS POSTAL ASSISTANT
HEAD POST OFFICE

NEAR D.C. OFFICE
TUMAKURU 572 101.

...RESPONDENT

(BY SRI. SURESH P., ADVOCATE)

THIS RPFC IS FILED UNDER SEC.19(4) OF FAMILY COURT ACT., AGAINST THE ORDER DATED 24.07.2024 PASSED IN CRL.MISC NO.132/2020 ON THE FILE OF I ADDITIONAL PRL. JUDGE, FAMILY COURT, TUMAKURU., PARTLY ALLOWING THE PETITION FILED UNDER SEC.125 OF Cr.P.C., FOR MAINTENANCE.

THIS REVISION PETITION FAMILY COURT HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.03.2026 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 by the wife under Section 19(4) of the Family Courts Act, 1984, seeking to set aside the judgment and order dated 24.07.2024 passed by the I Additional Principal Judge, Family Court, Tumakuru in Crl.Misc.No.132/2020. By the impugned order, the Family Court has partly allowed the petition filed under Section 125 of the Cr.P.C., directing the respondent to pay a monthly maintenance of Rs.8,000/- each and litigation expense of Rs.5,000/-.

2. The brief facts of the case are that:-

The petitioner is legally wedded wife of the respondent. Their marriage was solemnized on 07.06.2012 at Gayathri Kalyana Mantapa, Kunigal Road, Tumakuru. Out of the wedlock, two male children, namely Aarya and Manjunatha, were born. It is the case of the petitioner that after about one year of marriage, disputes arose between the parties due to ill-treatment and harassment meted out to her at the matrimonial home. The respondent's mother allegedly insulted the petitioner and the circumstances became unconducive for her to reside with the respondent. Consequently, the petitioner was constrained to live separately. The petitioner filed a petition under Section 125 Cr.P.C. seeking maintenance. The respondent, in turn, filed a petition for restitution of conjugal rights, which came to be decreed in his favour. However, the said decree was never executed. The Family Court, by the impugned order, dismissed the petitioner No.1 – wife's claim for maintenance mainly on the ground that she had deserted the respondent without sufficient cause and in view of the decree for

restitution of conjugal rights and partly allowed the petition directing the respondent to pay maintenance of Rs.8,000/- per month to each of the petitioner Nos.2 and 3 from the date of petition till they attain majority and also directed the respondent to pay litigation expenses of Rs.5,000/-.

3. On hearing the submissions of learned counsel for both the parties, this Court vide order dated 30.01.2025 has allowed I.A.No.1/2024 filed for interim maintenance by the petitioner No.1 – wife and directed the respondent – husband to pay monthly maintenance of Rs.5,000/- per month to the petitioner No.1 – wife till further order passed by this Court from the date of filing of the petition and also directed to pay arrears of maintenance to the petitioner within two months. Respondent – husband is also directed to pay the maintenance amount of Rs.8,000/- per month to each of the children as ordered in Crl.Misc.No.132/2020 vide order dated 24.07.2024. The respondent – husband on 09.09.2025 has filed a memo along with Demand Draft for having paid an amount of Rs.45,000/- to the petitioner No.1 – wife. On 28.11.2025, the respondent – husband has handed over

Demand Draft dated 29.10.2025 for a sum of Rs.25,000/- in the name of the petitioner No.1 – wife. Again on 12.12.2025, respondent – husband has handed over the DD No.033766 dated 04.12.2025 drawn on SBI to the petitioners.

4. Learned counsel for the petitioners submits that after one year of their marriage, the mother of the respondent – husband started teasing the petitioner No.1 and used to tute her son to abuse petitioner No.1. On 19.04.2013, when the petitioner No.1 had gone to her parental house for first delivery and she delivered 2nd petitioner, respondent did not visit the hospital in order to avoid payment of hospital bills. It is further contended that petitioner No.1's mother-in-law and sister-in-law abused her and tortured her. He submits that the petitioner No.1 is unable to earn money due to her age factor and unemployment and she is unable to lead her life. He submits that the respondent – husband is a Central Government employee and working at Postal Department at Sira Town and drawing salary of Rs.50,000/- to Rs.60,000/- per month

and apart from that, he is having land property and house at Pavagada Taluk. Out of the said land, he is earning Rs.2,00,000/- to Rs.4,00,000/- per year by growing groundnuts and other crops. Learned counsel for the petitioners has relied on the judgment of the Hon'ble Apex Court in the case of ***Rina Kumari @ Rina Devi @ Reena vs. Dinesh Kumar Mahto @ Dinesh Kumar Mahato and another*** in ***Special Leave Petition (Crl.) No.5896/2024***. Hence, prays for allowing the writ petition and modify the impugned order.

5. The respondent – husband has filed his statement of objections stating that he is willing to take back the petitioner and to lead happy marital life and the question of giving maintenance to the petitioners does not arise at all. He contends that the Family Court in M.C.No.262/2020 filed by the respondent has rightly passed the order by directing the petitioner No.1 to join the respondent since the said petition filed by the respondent is for restitution of conjugal rights but the petitioner No.1 has not joined the respondent. The Family Court in Crl.Misc.No.132/2020 has rightly

rejected the claim of the petitioner No.1. He submits that the respondent – husband is working as Postal Assistant and getting salary of Rs.45,258/-, out of which, he has to look after his old age mother, who is suffering from old age ailments. Learned counsel for the respondent – husband has relied on the judgment of this Court in the case of ***Smt.Suma alias Narasamma vs. H.Kumar*** reported in ***2022 (5) KCCR 469 (DB)***. Hence, prays for dismissal of the petition.

6. Heard the learned counsel appearing for both the parties and perused the material on record.

7. At the outset, it is to be noted that proceedings under Section 125 of Cr.P.C., are summary in nature and intended to prevent destitution. The scope of inquiry is limited to whether the wife is unable to maintain herself and whether the husband has neglected or refused to maintain her. Further, the existence of a decree for restitution of conjugal rights does not automatically disentitle the wife from claiming maintenance. What is required to be examined is whether the wife had sufficient

reason to live separately. In the present case, the material on record discloses that the petitioner No.1 had alleged harassment and ill-treatment in the matrimonial home. She expressed willingness to reside with the respondent, subject to assurance of safety. The respondent, despite obtaining a decree for restitution of conjugal rights, did not take any steps to execute the same. The conduct of the respondent in not executing the decree assumes significance. If the respondent was genuinely interested in resuming cohabitation, he ought to have taken steps to enforce the decree. His failure to do so indicates that the decree was used merely as a defence to avoid maintenance. The Family Court has also failed to appreciate that non-compliance with a decree for restitution cannot, by itself, be treated as a ground to deny maintenance under Section 125 (4) of Cr.P.C., unless it is established that the wife has refused to live with the husband without sufficient cause.

8. In the present case, the petitioner No.1 has demonstrated sufficient reasons for living separately. The

finding of the Family Court that the petitioner No.1 deserted the respondent is perverse and not supported by proper appreciation of evidence. It is also well settled that the right to maintenance is a statutory right and cannot be defeated on technical grounds. The obligation of the husband to maintain his wife and children is a continuing obligation.

9. Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Apex Court stated *supra*, wherein, at paragraph Nos.9, 10, 11, 15, 21, 27, 29, 31, 34, it has held as under:-

"9. In its 41 Report submitted on 24th September, 1969, the Law Commission of India, while adverting to Section 488 of the Code of Criminal Procedure, 1898, observed that the primary justification for placing provisions relating to maintenance of wives and children, which is a civil matter, in the Criminal Procedure Code was that a remedy, speedier and more economical than that available in the Civil Courts, is provided to them. The Law Commission noted that the provision was aimed at preventing starvation and vagrancy, leading to commission of crime.

10. On the same lines, in Chaturbhuj vs. Sita Bai¹, this Court observed that the object of maintenance proceedings is not to punish a person for his neglect but to prevent the vagrancy and destitution of a deserted wife, by providing her food, clothing and shelter by a speedy remedy. It was held that Section 125 Cr.P.C. is a measure of social justice, especially enacted to protect women and children, falling within the constitutional

sweep of Article 15(3) reinforced by Article 39 of the Constitution. Thus, the objective of the provision, then and now, is to alleviate the financial plight of destitute wives, children and now, parents, who are left to fend for themselves.

11. In Bhuwan Mohan Singh vs. Meena and others, this Coun observed that Section 125 Cr.P.C. was conceived to ameliorate the agony, anguish and financial suffering of a woman, who left her matrimonial home for the reasons provided in the provision, so that some suitable arrangement can be made by the Court and she can sustain herself and also her children, if they are with her. It was held that the concept of sustenance did not necessarily mean 'to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else and the wife would be entitled in law to lead a life in a similar manner as she would have lived in the house of her husband: This Court further cautioned that, in a proceeding of this nature, the husband cannot be permitted to take subterfuge to deprive the wife of the benefits of living with dignity and there could be no escape route, unless there is an order from the Court that the wife is not entitled to get maintenance from the husband on legally permissible grounds.

15. The issue, presently, turns upon the applicability of Section 125(4) Cr.P.C to the case on hand. The question as to whether non-compliance with a decree for restitution of conjugal rights by a wife would be sufficient in itself to deny her maintenance, owing to Section 125(4) Cr.P.C, has been addressed by several High Courts but no consistent view is forthcoming, as their opinions were varied and conflicting.

21. In Babita vs. Munna Lal, the Delhi High Court opined that an ex parte decree for restitution of conjugal rights would not automatically put an end to the wife's right to maintenance under Section 125 Cr.P.C. It was held that, even if such a case is contested by the wife and is decided in the husband's favour, non-compliance therewith could be taken to be a ground to deny maintenance, provided the Court is satisfied on the strength of evidence that the wife had no justifiable grounds to stay away from the husband. The mere presence of a decree for restitution of conjugal rights was, therefore, held insufficient to disentitle a wife from

claiming maintenance, if the conduct of the husband is such that she is unable to obey such a decree or if the husband creates such circumstances that she cannot stay with him. It was noted that even a divorced wife is entitled to maintenance under Section 125 Cr.P.C. and it would be improper and unfair to deny maintenance to a wife merely because she refused to cohabit with the husband, despite having sufficient grounds therefor.

27. Now, turning to the decisions of this Court on the point, in Kirtikant D. Vadodaria vs. State of Gujarat and another, it was held that Section 125 Cr.P.C. has to be given a liberal construction to fulfil and achieve the intention of the legislature and, therefore, the passing of a decree for restitution of conjugal rights against the wife would not, by itself, defeat her right to maintenance under Section 125(1) Cr.P.C. It was further observed that the mere 'failure' of the wife to live with her husband would not be sufficient to disentitle her from receiving maintenance from him, especially as the crucial word carefully chosen in the relevant provision is refusal.

29. Thus, the preponderance of judicial thought weighs in favour of upholding the wife's right to maintenance under Section 125-Cr.P.C. and the mere passing of a decree for restitution of conjugal rights at the husband's behest and non-compliance therewith by the wife would not, by itself, be sufficient to attract the disqualification under Section 125(4) Cr.P.C. It would depend on the facts of the individual case and it would have to be decided, on the strength of the material and evidence available, whether the wife still had valid and sufficient reason to refuse to live with her husband, despite such a decree. There can be no hard and fast rule in this regard and it must invariably depend on the distinctive facts and circumstances obtaining in each particular case. In any event, a decree for restitution of conjugal rights secured by a husband coupled with non-compliance therewith by the wife would not be determinative straightaway either of her right to maintenance or the applicability of the disqualification under Section 125(4) Cr.P.C.

31. Further, in Iqbal Singh Marwah and another vs. Meenakshi Marwah and another, while dealing with the contention that an effort should be made to avoid conflict of findings between Civil and Criminal Courts, a Constitution Bench pointed out that there is neither any

statutory provision nor any legal principle that the findings recorded in one proceeding may be treated as final or binding in the other, as both the cases have to be decided on the basis of the evidence adduced therein.

34. Long ago, in Captain Ramesh Chander Kaushal vs. Mrs. Veena Kaushal and others, this Court noted that it is valid to assert that a final determination of a civil right by a Civil Court would prevail against a like decision by a Criminal Court but held that this principle would be inapplicable when it comes to maintenance granted under Section 24 of the Hindu Marriage Act, 1955, as opposed to maintenance granted under Section 125 Cr.P.C. It was noted that the latter provision was a measure of social justice specially enacted to protect women and children falling within the constitutional sweep of Article 15(3) reinforced by Article 39."

10. The Family Court has recorded its findings at paragraph Nos.20, 24, 25 and 27 as under:-

*"20. I have gone through the principles laid down in the rulings relied by learned counsel for the petitioners and respondent. In the very ruling relied by learned counsel for the petitioners i.e para No.22 the judgment in **Babita V/s Munnalal** it is held that if a decree for Restitution of Conjugal Rights is granted in favour of the husband and it is clearly opined on an issue so framed in the said case that she has not been living with him without reasonable cause, Section 125(4) Cr.P.C will come in to picture and wife is not entitled for maintenance. Further, above case dealt with respect to an exparte decree for Restitution of Conjugal Rights. Even the observation made in para No.16 of the judgment of Hon'ble High court of Karnataka in the case of **B.T. Gangadharappa V/s Smt. Veena** shows that a decree for Restitution of Conjugal Rights will be binding only if issue has been framed in this regard and the parties have been given opportunities to lead evidence and specific findings are recorded by the Civil Court on Fontested merit and not binding in the cases where the husband has obtained ex-parte decree of Conjugal Rights from a Civil Court.*

24. In this background I have gone through the evidence on record. PW.1 in her cross examination has admitted that' ದಿನಾಂಕ:01.07.2019 ರಂದು ಎದುರುದಾರರು ನಮ್ಮ ವಕೀಲರ ಮೂಲಕ ನನಗೆ ಮತ್ತು ನಮ್ಮ ತಂದೆಗೆ ಬಂದು ಸಂಸಾರ ನಡೆಸುವವಂತೆ ನೋಟೀಸನ್ನು ಕೊಟ್ಟಿದ್ದರು ಎನ್ನುವುದು ಸರಿ. 'Further admitted that, '2019 ನೇ ಇಸವಿಯ ಆಗಸ್ಟ್ ತಿಂಗಳ ಕೊನೆಯ ವಾರದಲ್ಲಿ ನಮ್ಮ ಸಂಬಂಧಿಕರು ಮತ್ತು ಎದುರುದಾರರ ರಾಜಿ ಪಂಚಾಯಿತಿ ಮಾಡಿದರು ಎನ್ನುವುದು ಸರಿ. ಸದರಿ ಪಂಚಾಯಿತಿಯಲ್ಲಿ ನಮ್ಮ ತಂದೆ ನನ್ನನ್ನು ಎದುರುದಾರರ ಮನೆಗೆ ಕಳುಹಿಸಿ ಕೊಡುವುದಾಗಿ ಹೇಳಿದ್ದರು ಎನ್ನುವುದು ಸರಿ.' This shows that the respondent at the earliest point of time had issued the legal notice calling upon the petitioner No.1 to join him and made attempts to take her back. Further, Ex.R.23 also shows that the respondent after getting the decree for Restitution of Conjugal Rights has issued legal notice calling upon the petitioner No.1 to join him. Ex.R.24 shows that the petitioner No.1 instead of joining him has got issued a reply notice expressing that the respondent should come and take them. Further. PW.1 in the cross examination has admitted that, ನಾನು ಎದುರುದಾರರ ತಂಗಿ ಮನೆಯಲ್ಲಿ ಇರುವವರೆಗೂ ಹೋಗುವುದಿಲ್ಲ ಎಂದು ಹೇಳಿರುತ್ತೇನೆ. 'Ex.P17 shows that the sister of respondent is dead and same is also observed in the judgment In M.C.262/2020. Further, the recitals in page No.4 of Ex.P.9 and recitals of Ex.R.20 and R.21 shows that petitioner No.1 has stated that there is no problem from the respondent and her mother and only problem is with the sister of the respondent. However, in the petition even there is allegation against the respondent and his mother. These admissions and evidence shows that the petitioner No.1 has deserted the respondent without sufficient cause.

25. In view of the principles laid down in the above said rulings and in view of provision of Section 125(4) of Cr.P.C the petitioner No.1 having refused to live with her husband without any sufficient cause is not entitled for maintenance from the respondent.

27. The admission of respondent both in his pleading and evidence shows that petitioners No.2 and 3 are his children. The strained marital relationship between petitioner No.1 and respondent has got nothing to do with the status of petitioners No.2 and 3. It is well settled principles of law that the obligation to maintain the child is statutory. Therefore, petitioners No.2 and 3 being children of respondent have got every right to claim maintenance from the respondent, irrespective of the marital differences between their mother and father and decree for Restitution of Conjugal Rights against

their mother with whom they live. Similarly, it is the duty of respondent to maintain and provide all the basic necessity to the petitioners No.2 and 3."

11. It is undisputed fact that the marital relationship between the petitioner No.1 and the respondent is valid, though they are presently living separately due to disputes and there are two children born out of the said marriage. The evidence on record produced by both parties, reveals that the respondent is working at Postal Department and earning a sum of Rs.45,258/- as take home salary for the month of May-2024. The material further establishes that the respondent neglected and failed to maintain the petitioner No.1 despite having sufficient means and that multiple disputes between the parties indicate strained relations and neglect on his part. The contention that the petitioner No.1 is capable of maintaining herself is not sufficiently proved by the respondent – husband to disentitle her from maintenance. The judgment relied on by the respondent is not applicable to the case on hand.

12. In view of the foregoing discussion, this Court is of the considered opinion that the impugned order dated

24.07.2024 passed by the I Additional Principal Judge, Family Court, Tumakuru, rejecting the interim maintenance to the petitioner No.1 – wife suffers from illegality, perversity and warrants interference of this Court.

13. Considering the social object of Section 125 of Cr.P.C., the status of the parties, cost of living and the respondent's financial capacity, wife is entitled for maintenance of Rs.10,000/- per month. Respondent is directed to pay the said amount to the petitioner No.1 from the date of filing of this RPFC till her lifetime.

14. In view of the above observations, I proceed to pass the following:-

ORDER

i) The Revision Petition is ***allowed***.

ii) The impugned order dated 24.07.2024 passed in CrI.Misc.No.132/2020 by the I Additional Principal Judge, Family Court, Tumakuru, stands modified.

iii) The petitioner No.1 – wife is entitled to maintenance under Section 125 of the Cr.P.C.

iv) The respondent – husband shall pay maintenance of Rs.10,000/- per month to the petitioner No.1 from the date of filing the RPFC before this Court till her lifetime.

v) The respondent is directed to pay maintenance of Rs.8,000/- per month each to the petitioner Nos.2 and 3 from the date of petition till they attain majority as per the order of the Family Court.

vi) The respondent shall also pay arrears of maintenance within a period of eight weeks from the date of this order.

vii) The respondent shall continue to pay the monthly maintenance regularly on or before the 10th of every month.

viii) No order as to costs.

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

MH/-