



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

REV.PET FAMILY COURT NO. 196 OF 2024

BETWEEN:

1. SMT. SULTANA,
W/O MOHAMMED GHOUSE @ ARSHAD,
AGED ABOUT 31 YEARS,
2. MUSKAN
D/O W/O MOHAMMED GHOUSE @ ARSHAD
AGED ABOUT 4 YEARS(MINOR)
REPRESENTED BY NATURAL GUARDIAN MOTHER
(PETITIONER NO.1)

BOTH ARE R/AT NO 398, AJ BLOCK,
NR MOHALLA MYSORE 570007

...PETITIONERS

Digitally signed
by AASEEFA
PARVEEN

(BY SRI.MOHAMMED TAHIR, ADVOCATE)

Location: HIGH
COURT OF
KARNATAKA

AND:

MOHAMMED GHOUSE @ ARSHAD.
S/O ISMAYIL SAAB
AGED ABOUT 34 YEARS,
R/AT MAIN ROAD, JAYAPURA HOBLI,
DODDAKANYA POST,
NANJANGUD TALUK,
MYSORE - 571311.

...RESPONDENT

(BY SRI.SHIVANAGOL VEERABHADRA, ADVOCATE)



THIS RPFC FILED UNDER SEC.19(4) OF THE FAMILY COURTS ACT., AGAINST THE ORDER DATED 25.09.2023 PASSED IN CRL. MISC NO.82/2021 ON THE FILE OF II ADDITIONAL PRL. JUDGE, FAMILY COURT, MYSURU., PARTLY ALLOWING THE PETITION FILED UNDER SEC.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.Mohammed Tahir, learned counsel for the petitioners as well as Sri.Shivanagol Veerabhadra, learned counsel for the respondent.

2. Challenge in this revision petition is the order that is passed by the Court of II Additional Principal Judge, Family Court, Mysuru, in Crl.Misc. Case No.82/2021 dated 25.09.2023. There is no dispute about the fact that first petitioner is the wife and second petitioner is the minor daughter of the respondent herein. Petitioners filed a petition under Section 125 Cr.PC seeking maintenance from the respondent. Family Court through the impugned order directed respondent to pay petitioner No.2 a sum of ₹8,000/- per month towards maintenance from the date of petition till she attains majority.



The claim of petitioner No.1 was rejected and aggrieved by the same this revision petition is filed.

3. Learned counsel for the petitioners states that unjustifiably the claim of petitioner No.1 was rejected. Learned counsel submits that Petitioner No.1 resides at Mysuru and respondent resides in a nearby village. Petitioner No.1 was pursuing her studies and therefore she was required to stay at Mysuru. Petitioner No.1 requested respondent to set up family at Mysuru, but respondent did not. Also there were disputes between both and thus they were residing separately. Petitioner No.2 is residing with petitioner No.1. Petitioner No.1 is also entitled for maintenance from respondent as the liability vests upon the husband to maintain the wife. Learned counsel contends that without valid reasons Family Court dismissed the claim of petitioner No.1 and aggrieved by the same, this revision petition is filed. Learned counsel thereby seeks to allow the revision petition and direct respondent to pay maintenance to petitioner No.1.

4. Vehemently opposing the submission thus made, learned counsel for respondent states that without reasonable



excuse, petitioner No.1 withdrew from the society of respondent. Petitioner No.1 lodged complaint against respondent before police, later she took all her belongings voluntarily from the matrimonial home. In proof of the same respondent produced sufficient evidence before the trial Court. Even petitioner No.1 who examined herself as PW1 admitted during the course of cross-examination that she shifted all the household articles including her gold ornaments. Learned counsel further submits that respondent who wanted to lead life with petitioner No.1, filed a suit seeking decree of conjugal rights. In the said suit, petitioner No.1 appeared and contested. After receiving all the evidence produced, the Court decreed the suit and directed petitioner No.1 to join respondent, but petitioner No.1 did not join. Respondent filed an execution petition. However, he could not pursue thereafter and therefore the execution petition was dismissed for non-prosecution. Petitioner No.1 till date did not dispute the validity of the decree passed for restitution of conjugal rights and thus the decree attained finality. As petitioner No.1 without reasonable cause left respondent, she is not entitled for maintenance.



5. In reply to the said submission learned counsel for petitioners stated that even if wife does not oblige the decree passed for restitution of conjugal rights, she is entitled for maintenance from her husband. In that regard, learned counsel relied upon the decision of the Hon'ble Apex Court reported in (2025) 3 SCC 33 between *Rina Kumari Alias Rina Devi Alias Reena Vs. Dinesh Kumar Mahto Alias Dinesh Kumar Mahato and another*. In the said judgment, the Hon'ble Apex Court at para 41 held as under:

"41. The reason for this is not far to gather. In Rohtash Singh v. Ramendri, this Court clarified that a wife, who suffered a decree of divorce on the ground of deserting her husband, would not be entitled to maintenance under Section 125 CrPC as long as the marriage subsisted, but she would be entitled to such maintenance once she attained the status of a divorced wife, in the light of the definition of a "wife" in Explanation (b) to Section 125(1) CrPC. Dinesh, therefore, sought protect himself from a claim by Reena for maintenance by projecting the disobeyed restitution decree as a defence and as long as she did not attain the status of a divorced wife, that protection would endure to his benefit. This stalemate of sorts created by Dinesh clearly reflect his wife, Reena. These factors, taken cumulatively, clearly manifest that Reena bona fides and demonstrates his attempt to disown all responsibility towards had more than sufficient reason to stay away from the society of her husband, Dinesh, and her refusal to live with him, notwithstanding the passing of a decree for restitution of conjugal rights, therefore, cannot be held against her. In consequence, the disqualification under Section 125(4) CrPC was not attracted and the High Court erred



grievously in applying the same and holding that Reena was not entitled to the maintenance granted to her by the Family Court."

6. The reasons for arriving at that conclusion are given in the preceding paragraphs more particularly at paragraph 38 and therefore the same is extracted as under:

"38. Viewed thus, the findings in the proceedings for restitution of conjugal rights, which were partly uncontested as Reena did not appear before the Family Court to adduce evidence or advance her case after filing her written statement, did not clinch the issue and the High Court ought not to have given such undue weightage to the said judgment and the findings therein. In the process, certain crucial factors were overlooked. Particularly, the fact that the witnesses who appeared on behalf of Reena in Section 125 CrPC proceedings were not even cross-examined. It was clear therefrom that Dinesh did not even contest or rebut what they had stated. The fact that Reena was fully dependent on her brother was thus admitted. Further, documents were placed on record in proof of Reena's abortion in January 2015. In that regard, Dinesh's admission that he did not bear the expenditure for her treatment and her un rebutted assertion that he did not take her to the hospital or even come from Ranchi to see her were clear indicia of the pain and mental cruelty meted out to her. The fact that she was not allowed to use the toilet in the house or avail proper facilities to cook food in the matrimonial home, facts which were accepted in the restitution proceedings, are further indications of her ill-treatment."

7. Thus, in the aforementioned case which was decided by the Hon'ble Apex Court, wife Reena did not appear



before the Family Court to adduce evidence. Also there is an observation that Reena had more than sufficient reason to stay away from the society of her husband and have refused to live with him notwithstanding passing of the decree of restitution of conjugal rights. However, in the case on hand there are clear findings that petitioner No.1 withdrew from the society of the respondent without any justifiable cause. When a party has accepted the decree passed by the competent Court, it is the obligation of that party to abide by the terms of the decree passed and to act upon its terms. Here is a case where petitioner No.1 failed to oblige the decree passed against her. Reasonable cause for doing so is neither shown nor made out.

8. The submission of learned counsel for petitioners is that petitioner No.1 was pursuing her studies at Mysuru and therefore she could not join her husband who was residing in a village. On the other hand the submission of learned counsel for respondent is that petitioner No.1 got accustomed to live lavishly in a city and therefore she refused to live along with her husband in a small village. No material whatsoever is on record establishing the nature of studies which petitioner No.1



was pursuing from the time she started residing separately till the date of passing of decree of restitution of conjugal rights, thereafter till now. Family Court discussing all these aspects has rightly held that petitioner No.1 is not entitled for any maintenance. As it is clearly brought on record that petitioner No.1 withdrew from the society of the respondent without sufficient cause and as she has not obliged the decree passed for restitution of conjugal rights, that too without valid reason, this Court is of the view that the decision that is relied upon by learned counsel for petitioners does not help them so as to get a favourable order from this Court. Thus, viewed from any angle this revision petition lacks merits. Resultantly, the following:

ORDER

The revision petition is dismissed.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

AP
CT:TSM
List No.: 1 Sl No.: 46