IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.35461 OF 2025 (GM-FC)

BETWEEN:

MR. AJAY NARASAIAH
AGED ABOUT 49 YEARS,
S/O. NARASAIAH CHILUKA &
SUNITHA CHILUKA,
RESIDING AT NO. 1375,
CLEVLAND HEIGHTS, BLVD,
APARTMENT NO.110,
CLEVLAND HEIGHTS, OH-44121,
UNITED STATES OF AMERICA,

…PETITIONER

(BY SRI. K MURTHY, ADVOCATE)

AND:

MRS. BHAVANA SRIKANTH
AGED ABOUT 41 YEARS,
W/O. AJAY NARASAIAH,
RESIDING AT FLAT NO.404,
GERANIUM,SANKALP CENTRAL PARK,
YADAVAGIRI,MYSURU,
KARNATAKA - 570 020.

…RESPONDENT

(BY SRI. VENKATESH R. BHAGAT, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO THEREFORE, THE PETITIONER RESPECTFULLY PRAYS THAT THIS HONBLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED 30.10.2025 PASSED IN APPLICATION UNDER ORDER XVII RULE 1 R/W. SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908, IN M.C. NO. 455/2024 BY THE LEARNED II ADDITIONAL PRINCIPAL FAMILY COURT JUDGE, MYSURU, BY ALLOWING THIS WRIT PETITION, CONSEQUENTLY PERMIT THE

PETITIONER TO CONTINUE PARTICIPATING IN ALL PROCEEDINGS THROUGH SECURE VIDEO CONFERENCING, AND PASS SUCH OTHER ORDER(S) OR GRANT SUCH RELIEF(S) AS THIS HONBLE COURT MAY DEEM JUST AND PROPER IN THE FACTS AND CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

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

CAV ORDER

The present petition is filed by the petitioner/husband seeking to set aside the impugned order dated 30.10.2025, allowing an application filed under Order XVII Rule 1 read with Section 151 of CPC, by the husband seeking adjournment on a particular day, in M.C.No.455/2024, pending on the file of the II Additional Principal Family Court Judge, Mysuru ('the Family Court', for short), imposing a condition that the petitioner should appear before the Court in-person.

2. The brief facts of the case are as under:

3. The respondent is the legally wedded wife of the petitioner. The petitioner has filed M.C.No.455/2024 under Section 27(1) (d) of the Special Marriage Act, 1954, seeking dissolution of marriage on the ground of cruelty. It is the contention of the petitioner that the respondent – wife has filed a counter statement together with a counter claim in M.C.No.455/2024, seeking a decree of divorce by making false and baseless allegations. The case is presently at the stage of the cross-examination of P.W.1. The petitioner was examined as P.W.1 and got marked Exs.P.1 to P.8. His cross-examination was partly conducted through video conferencing. The petitioner contends that he is a citizen of the United States of America and is unable to appear physically before the trial Court owing to his employment obligations in abroad and he has to look after his old aged parents, who are suffering from ailments. He further submits that he has been regularly participating in the proceedings through virtual mode, in full compliance with the Video Conferencing Rules, 2020 (for short 'the Rules'), without

causing any delay or dragging the proceedings before the Trial Court. He further submits that when the matter was posted on 30.10.2025 for continuation of cross-examination of P.W.1, the petitioner was unable to appear through video conference as he was suffering from ill-health / flu and was advised for five days bed rest. Hence, he filed an application under Order XVII Rule 1 read with Section 151 of CPC seeking adjournment for cross-examination of P.W.1.

4. The trial Court has allowed the application of the petitioner vide order dated 30.10.2025; adjourned the matter and directed that the petitioner shall appear physically before the Court on 02.12.2025. Being aggrieved by the same, the petitioner is before this Court.

5. Learned counsel for the petitioner submits that the application though allowed, the direction of the trial Court for physical appearance is contrary to the Video Conferencing Rules, 2020 and therefore, he would particularly rely upon Rules 5.3.1 and 18 of the Rules.

Therefore, he seeks to modify that portion of the impugned order, which is prejudicial to the petitioner.

6. Learned counsel for the respondent submits that the presence of the petitioner - husband is imperative and therefore, entertaining the subject petition is uncalled for. Therefore, he seeks dismissal of the petition.

7. After hearing the learned counsel for the parties and on perusal at the Rules, it is apposite to quote the aforesaid provisions of the Video Conferencing Rules, 2020, to resolve the issue in the case at hand. Rule 5.1, 5.3.1 and Rule 18 of the Rules read as follows:

> ***Rule 5.1 – Preparatory Arrangements (Coordinator)***
>
> *"There shall be a Coordinator both at the Court Point and at the Remote Point from which any Required Person is to be examined or heard. However, Coordinator may be required at the Remote Point only when a witness or a person accused of an offence is to be examined."*

Rule 5.3.1 –

Sub Rule	***Where the Advocate or Required Person is at the following***	***The Remote Point Coordinator shall be:-***

	Remote Point:-	
5.3.1	*Overseas*	*An official of an Indian Consulate/ the relevant Indian Embassy / the relevant High Commission of India.*

Rule 18 – Power to Relax

The High Court may if satisfied that the operation of any Rule is causing undue hardship, by an order dispense with or relax the requirements of that Rule to such extent and subject to such conditions, as may be stipulated to deal with the case in a just and equitable manner.

8. In the light of the afore-quoted Rules, the issue which arises for consideration is whether in the case at hand, the rigour of Rule 5.1 and Rule 5.3.1 requires to be strictly applied, or this Court under Rule 18 of the Rules can grant relaxation for the effective participation of the petitioner in the proceedings.

9. The issue in the case at hand is considered by a Co-ordinate Bench of this Court in W.P.No.25691/2025,

disposed on 22.09.2025, wherein, at paragraph Nos.10 to 15 has held as follows:

> *"10. In light of the unequivocal undertaking given by the petitioner, this Court finds merit in her request. It is not in dispute that the present prosecution is initiated at the instance of the petitioner, arising out of allegations of marital discord and domestic disputes between her and respondent No.2. It is in this backdrop that a crime was registered against the respondent-husband. Having regard to the peculiar circumstances of the case, and the practical difficulty faced by the petitioner in availing Embassy facilities owing to the mismatch of working hours between the Embassy and Indian Courts, this Court is of the opinion that both the examination-in-chief and the cross-examination of the petitioner/complainant can be permitted through video conferencing directly from her residence in the United States, subject to the safeguards imposed herein.*
>
> *11. Rule 18 of the Video Conferencing Rules, 2020 confers a specific power upon the High Court to relax the rigour of any of the Rules, where sufficient cause is shown, and subject to the imposition of such conditions as may be deemed appropriate in the facts and circumstances of each case. The object of incorporating Rule 18 is to ensure that the procedural framework laid down in the Rules does not, in its strict application, become an impediment to the effective dispensation of justice. It recognizes that situations may arise where insistence on literal compliance with the Rules would cause undue hardship or prejudice to a party and,*

therefore, vests discretion in the High Court to relax such procedural requirements.

12. In this backdrop, the contention advanced on behalf of respondent No.2-husband that the petitioner ought to have approached the learned Magistrate for seeking relaxation of Rule 5.3.1 cannot be accepted. The power to relax the operation of Rule 5.3.1 is not conferred on the trial court, but is specifically vested in the High Court under Rule 18. Consequently, the objection that the petitioner has prematurely invoked the jurisdiction of this Court, without first moving the trial court, is misconceived and untenable. It is, therefore, within the domain of this Court to consider whether the facts of the present case warrant exercise of the power of relaxation under Rule 18, so as to enable the petitioner/complainant to record her evidence through video conferencing without being constrained by the strict mandate of Rule 5.3.1.

13. In the present case, the petitioner, who is the complainant/wife, has expressed her willingness to furnish an undertaking before this Court to the effect that her conduct during the course of cross-examination shall not, in any manner, prejudice the rights of respondent No.2. She has undertaken not to disconnect the proceedings abruptly, and has further agreed that if such a disconnection occurs due to her act, the entire evidence tendered by her may be liable to be discarded. In view of such an unequivocal undertaking, this Court is satisfied that the apprehension raised by respondent No.2 regarding disruption during cross-examination stands adequately addressed.

14. Rule 5.1 of the Rules contemplates the presence of a Coordinator at the remote point, where a witness or an accused person is to be examined. The intent behind this mandate is to ensure the authenticity of the process, to avoid external influence, and to maintain the integrity of the proceedings. However, in the case on hand, the petitioner is neither an accused nor a formal witness summoned by the prosecution; she is the complainant, at whose instance the criminal law has been set in motion. The proceedings are thus materially distinguishable from situations envisaged under Rule 5.1. Strict adherence to this requirement, in the peculiar facts and circumstances of the case, may not be warranted.

15. Further, Rule 5.3.1 requires that where the deponent is situated outside the territory of India, the recording of evidence must ordinarily be facilitated through the Indian Embassy or Consulate. In the instant case, the petitioner has demonstrated that due to the difference in time zones and the non-availability of Embassy facilities coinciding with Indian Court hours, she is practically unable to avail such services. The insistence on routing the process exclusively through the Embassy would, therefore, cause undue hardship to the petitioner, and may even result in derailing the trial process."

10. In the light of the judgment of the Co-ordinate Bench and the only reason for seeking adjournment on the particular day of cross-examination of P.W.1 was on medical grounds, as the petitioner was

suffering from illness, this Court invoking Rule 18 of the Rules, deems it fit to relax the condition imposed by the trial Court.

11. Accordingly, this Court passes the following:

ORDER

i) The petition is ***allowed***.

ii) The impugned order dated 30.10.2025 passed in M.C.No.455/2024 by the II Additional Principal Family Court Judge, Mysuru, stands modified.

iii) The petitioner/husband is permitted to conduct further cross-examination of P.W.1 through Video Conferencing and the rigour of Rule 5.1 read with Rule 5.3.1 of the Video Conferencing Rules, 2020 is relaxed to this extent.

iii) The petitioner/husband shall be made available for cross-examination through virtual

mode, which shall proceed uninterruptedly without causing prejudice to the respondent during the course of cross-examination.

v) The learned Magistrate shall permit the petitioner/husband to record further cross-examination on the dates so assigned.

vi) The learned Magistrate shall fix the dates and timings of such virtual recording of evidence, after duly notifying both parties in advance.

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

MH/-