HC-KAR
NC: 2026:KHC:61230
CRL.P No. 2111 of 2024
CNR: KAHC010119592024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO.2111 OF 2024

BETWEEN:

SMT. MANJULA
W/O BABU
D/O SHIVANNA
AGED ABOUT 41 YEARS
R/AT ARAHU VILLAGE
CHINAKURALI HOBLI
PANDAVAPURA TALUK - 571 427.

...PETITIONER

(BY SRI. SATISH V.,ADVOCATE)

AND:

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

SRI. BABU
S/O VIJENDRAGOWDA
AGED ABOUT 46 YEARS
R/AT BALLENAHALLI VILLAGE
K SHETTAHALLI HOBLI
SRIRANGAPATANA TALUK
MANDYA DISTRICT - 571 807.

...RESPONDENT

(BY SRI. KENCHEGOWDA B M.,ADVOCATE)

THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO SET ASIDE THE ORDER DATED 22.12.2023 PASSED BY THE HONBLE III ADDL. DISTRICT AND SESSIONS JUDGE, MANDYA

(SITTING AT SRIRANGAPATNA) IN CRL.RP.NO.5044/2023 AND UPHELD THE ORDER DATED 09.06.2023 PASSED BY THE HONBLE ADDL. CIVIL JUDGE AND JMFC, SRIRANGAPATNA IN CRL.MISC.NO.52/2022 IN AWARDING RS.3,000/- P.M.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

The petitioner herein filed Crl.Misc.No.52/2022 against her husband before the Additional Civil Judge and JMFC, Srirangapatna (hereinafter referred to as 'the Trial Court'), seeking maintenance of Rs.15,000/- per month under Section 125 of Cr.P.C. Along with the petition, she also filed an application seeking interim maintenance under Section 125(1) of Cr.P.C. The Trial Court by its order dated 09.06.2023 partly allowed the said application and directed the respondent-husband to pay interim maintenance of Rs.3,000/- per month to the petitioner until disposal of the main petition.

2. Aggrieved by the said order, the respondent-husband preferred Crl.R.P.No.5044/2023 before the III Additional District and Sessions Judge, Mandya, sitting at Srirangapatna (hereinafter referred to as 'the learned Sessions Judge'). The learned Sessions Judge allowed the revision petition by setting aside the interim order passed by the Trial Court and directed the Trial Court to dispose of the main petition on merits, uninfluenced by the observations made by the learned Sessions Judge.

3. Aggrieved by the said order passed by the learned Sessions Judge, the petitioner-wife has preferred the present petition.

4. Heard the learned counsel for the petitioner.

5. The primary contention of learned counsel for the petitioner is that, ever since the date of her marriage with the respondent, i.e., 09.10.2008, the petitioner was subjected to both physical and mental harassment by the respondent. Due to such intolerable harassment, she was left with no other option but to leave the matrimonial home and reside at her

parental house. Since she was unable to maintain herself, she filed a petition under Section 125 of Cr.P.C. seeking maintenance. It is further contended that, though the Trial Court partly allowed the application for interim maintenance and directed the respondent-husband to pay a sum of Rs.3,000/- per month until disposal of the main petition, the learned Sessions Judge set aside the said order on the ground that the respondent and his family members had made efforts to bring the petitioner back to the matrimonial home and lead a happy married life. Learned counsel submits that the petitioner had also made several attempts to rejoin the matrimonial home however, owing to the intolerable harassment meted out to her, she was unable to continue living with the respondent. Therefore, the order passed by the learned Sessions Judge is unsustainable and calls for interference by this Court. Accordingly, learned counsel prays to allow the petition.

6. There is no representation for the respondent.

7. Having heard learned counsel for the petitioner and upon perusal of the impugned order, the order passed by the Trial Court and the petition filed by the petitioner under Section 125

of Cr.P.C., it is evident that the marital relationship between the petitioner and the respondent became strained after their marriage. The petitioner has specifically alleged that the respondent and his family members subjected her to physical and mental harassment and even failed to provide her with the basic necessities, including food, required for her sustenance in the matrimonial home. In such circumstances, having been left with no other option, the petitioner left the matrimonial home and started residing at her parental house.

8. This aspect of the matter has been duly appreciated by the Trial Court while granting interim maintenance of Rs.3,000/- per month. However, while setting aside the said order, the learned Sessions Judge has observed that the respondent and his family members had made all efforts to bring the petitioner back to the matrimonial home, but she failed to rejoin them. The allegations made by the petitioner clearly indicate that she was unable to continue her marital life with the respondent owing to the intolerable harassment allegedly meted out to her. Therefore, merely because the petitioner did not rejoin the matrimonial home despite the

efforts said to have been made by the respondent, the same cannot be a ground to deny her interim maintenance, particularly when she has assigned reasons for living separately.

9. Admittedly, the petitioner belongs to an economically weaker family and is unable to maintain herself. In such circumstances, the respondent, being her husband, is duty-bound to maintain her. The Trial Court, having taken into consideration the financial status of the parties, has awarded a meagre sum of Rs.3,000/- per month towards her interim maintenance. In the facts and circumstances of the case, the learned Sessions Judge ought not to have interfered with the said order.

10. The Hon'ble Apex Court in the case of ***RINA KUMARI @ RINA DEVI @ REENA VS DINESH KUMAR MAHTO @ DINESH KUMAR MAHATO AND ANOTHER*** reported in ***2025 INSC 55***, held in paragraph No.29 as under:

> *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 (2018) 17 SCC 737 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.

11. In view of the above observation, I proceed to pass the following:

ORDER

i. The criminal petition is ***allowed***.

ii. The order dated 22.12.2023 passed in Crl.R.P.No.5044/2023 by the III Addl. District and Sessions Judge, Mandya (sitting at Srirangapatna), is hereby set aside.

iii. The order dated 09.06.2023 passed in Crl.Mis.No.52/2022 by the Addl. Civil Judge and JMFC, Srirangapatna is hereby confirmed.

SD/-
(RAJESH RAI K)
JUDGE

GPG
List No.: 1 Sl No.: 14