



CNR: KAHC010252922019

NC: 2026:KHC:36553
CRL.P No. 6023 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 6023 OF 2019

BETWEEN:

MOHAMMED ASHFAQULLA
S/O ABDUL KHUDDUS
AGED ABOUT 37 YEARS
R/O PRASHANTH NAGAR
6TH MAIN, 4TH CROSS
HARIHAR
DAVANAGERE DISTRICT - 577 516.

...PETITIONER

(BY SRI HARISH KUMAR M S., ADVOCATE)

AND:

1. MOHAMMED JUNAID
S/O MOHAMMED ASHFAGULLA
AGED ABOUT 7 YEARS
2. MOHAMMED ABU SUFIYAN
S/O MOHAMMED ASHFAGULLA
AGED ABOUT 9 YEARS
MINOR

RESPONDENTS NO.1 & 2 ARE MINORS
REP BY THEIR MOTHER AND
NATURAL GUARDIAN
SMT S SEEMA KOUSAR
D/O ZAHEER SAB
GOVT. H P S TEACHER

Digitally signed
by ANUSHA V
Location: High
Court of
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TOTIKERE VILLAGE
SORABA TALUK
SHIVAMOGGA DISTRICT - 577 429.

...RESPONDENTS

(BY SRI ARUN KUMAR D N., ADVOCATE)

THIS CRL.P IS FILED U/S.482 CR.P.C., PRAYING TO SET ASIDE THE ORDER PASSED BY THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE, SHIMOGA, SITTING AT BHADRAVATHI IN CRL.RP.NO.5002/2018 DATED 13.03.2019 CONFIRMING THE ORDER PASSED BY THE ADDITIONAL SENIOR CIVIL JUDGE AND JMFC AT BHADRAVATHI IN C.MIS.NO.118/2016 DATED 04.12.2017.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 13.03.2019 passed by IV Additional District and Sessions Judge, Shimoga, sitting at Bhadravathi in Crl.RP.no.5002/2018 dated 13.03.2019 confirming order passed by Additional Senior Civil Judge and JMFC at Bhadravathi in Crl.Misc.no.118/2016 dated 04.12.2017, this petition is filed.



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2. Sri. Harish Kumar MS, learned counsel for petitioner submitted that Crl.Misc.no.118/2016 was filed under Section 125 of Code of Criminal Procedure, 1973 (CrPC) seeking for maintenance for respondents no.1 and 2. In petition filed on their behalf by their mother S Seema Kousar, it was stated that she married petitioner on 12.10.2008 at Community Hall, Shivamogga and respondents no.1 and 2 were born to them. It was stated that while she was working as Asst. Teacher in Govt. School at Tattikere village of Soraba Taluk, petitioner was working as teacher in a private Aided school in Davanagere. That shortly after marriage, petitioner and his family members began harassing her which continued even after birth of children. By making demands for dowry, petitioner failed to maintain and neglected them. Same had led to filing of complaints with Holehonnur and Soraba Police Stations. She had also filed PCR no.222/2012 for offences punishable under Section 504, 506, 498A read with Section 34 of Indian Penal Code, 1860 (**IPC**) and Sections 3 and 4 of Dowry Prohibition Act, 1961 (**DP Act**). It was stated that petitioner was having salary of more than Rs.20,000/- p.m., owned house and landed



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property and earning more than Rs.25,000/-. Thus, despite sufficient income, petitioner had failed to maintain them.

3. It was submitted, after appearance petitioner admitted relationship, but opposed claim for maintenance. He contended that claim was filed in vengeance by his wife after her complaint had ended in 'B' report. He denied demanding dowry and stated that he was working as daily wage teacher in Urdu School whereas his wife was teacher in Government School and having sufficient means of maintaining children.

4. It was submitted, claim was virtually based solely on testimony of his wife as only documents marked were invitation card, photographs and birth certificates, while petitioner deposed as RW.1 and reiterated his objections.

5. It was submitted, without proper consideration, petition was allowed awarding Rs.2,000/- p.m. to each of children till they attain age of majority. Aggrieved, petitioner had filed Crl.RP.no.5002/2018, but same was dismissed without proper consideration leading to this petition.



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6. At outset, it was submitted petitioner had admitted relationship, but denied failing to maintain his children. It was submitted, claim for maintenance was opposed on ground that his children were staying with their mother working as Government School teacher who was having sufficient income, whereas his monthly earning was barely sufficient for his survival and without any material order for maintenance was passed. Further, claim was opposed as lacking bonafide. Even when marriage was solemnized at Shivamogga, his wife was working in Tattikere, Taluk Soraba, filing of petition at Bhadravathi was only to harass petitioner. It is contended that both Courts had failed to appreciate facts and circumstances in proper perspective. On said grounds sought for allowing petition.

7. None appears for respondents.

8. Heard learned counsel and perused impugned orders.

9. This petition is by father challenging order of maintenance granted to his minor children under Section 125 of CrPC.



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10. Insofar as first ground of challenge that petition for maintenance was filed by his wife only to harass petitioner, it is seen that Hon'ble Supreme Court has in **Padmja Sharma v. Ratan Lal Sharma** reported in **(2000) 4 SCC 266** held that it would be duty of both parents to maintain children. Merely on ground that his wife is working as Asst.Teacher in Government School, would not be sufficient ground to neglect maintain children.

11. Even contention that his wife was Government teacher and having sufficient income as against petitioner, who was daily-wage teacher in private Urdu school, is not based on any material. Nothing prevented petitioner from producing salary certificate or such other documents with regard to his income.

12. When marital discord between petitioner and his wife is not disputed, respondents - children would be entitled for maintenance from both parents. Moreover, parties herein subscribe to Mohammedan law which obliges father to maintain his children. In case of son, duty to maintain continues till son



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attains age of majority or is able to maintain himself, whichever is earlier. In case of daughter, duty to maintain continues till her marriage. Said duty does not cease, even if they are residing with his wife. In **Noor Saba Khatoon v. Mohd.**

Quasim, (1997) 6 SCC 233, Hon'ble Supreme Court held:

"10. Thus, both under the personal law and the statutory law (Section 125 CrPC) the obligation of a Muslim father, having sufficient means, to maintain his minor children, unable to maintain themselves, till they attain majority and in case of females till they get married, is absolute, notwithstanding the fact that the minor children are living with the divorced wife.

11. Thus, our answer to the question posed in the earlier part of the opinion is that the children of Muslim parents are entitled to claim maintenance under Section 125 CrPC for the period till they attain majority or are able to maintain themselves, whichever is earlier and in case of females, till they get married, and this right is not restricted, affected or controlled by the divorcee wife's right to claim maintenance for maintaining the infant child/children in her custody for a period of two years from the date of birth of the child concerned under Section 3(1)(b) of the 1986 Act. In other words Section 3(1)(b) of the 1986 Act does not in any way affect the rights of the minor children of divorced Muslim parents to claim maintenance from their father under Section 125 CrPC till they attain majority or are able to maintain themselves, or in the case of females, till they are married."



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13. Admittedly, both children herein are minors and both their parents are working. Petitioner herein has not placed on record any material to establish that he is without income or unable to maintain himself.

14. While, passing impugned order, trial Court observed that both petitioner herein as well as his wife were working as teachers but residing separately due to marital differences, which as per PW.1 (wife) was due to demand of dowry. It however held that she failed to substantiate allegation. Based on admission that she took all her belongings from matrimonial home, it concluded that petitioner had not retained any of her jewellery or household articles. It observed that her allegation about attempt by petitioner to contracting second marriage was also not backed up by any material, not even suggestions. It proceeded on admission by petitioner that respondents no.1 and 2 (children) were residing with their mother and he had not paid maintenance from March 2012 till 30.10.2014, neglected to maintain his children and ordered payment of maintenance.



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15. While determining quantum of maintenance, it noted that claim was for Rs.5,000/- per month each. It noted that PW1 was earning about Rs.25,000/- per month, while petitioner was earning Rs.7,000/- p.m. Taking into account financial status of both parties and needs of children, trial Court awarded maintenance of Rs.2,000/- per month to each of children.

16. Before, Revisional Court only two grounds were urged. Firstly, about territorial jurisdiction and secondly, challenge on quantum of maintenance, which were rejected observing that petitioner had not raised any objection regarding territorial jurisdiction in his statement of objection before trial Court and that trial Court had examined financial status of both parents, their respective responsibilities, age and need of children while fixing maintenance at Rs.2,000/- per month for each child. It observed, minor children required money for food, clothing, shelter, education, and medical needs and Rs.2,000/- per month per child could not be considered excessive or unreasonable. Consequently, it dismissed Revision.



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17. In light of above reasoning, there would be no grounds to interfere.

Consequently, petition is ***dismissed***.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

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List No.: 1 Sl No.: 21