



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR JUSTICE PRADEEP SINGH YERUR

REV.PET FAMILY COURT NO. 24 OF 2023

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BETWEEN:

SRINIVASA D.,
S/O C.H.JAYAPPA,
AGED ABOUT 37 YEARS,
OCC: BMTC BUS DRIVER CUM CONDUCTOR,
R/O CHIKKADEVARAHALLI VILLAGE,
CHANNAGIRI TALUK, PIN - 577 213,
DAVANAGERE DISTRICT

AND ALSO AT: NO.24, GANGAMMA LAYOUT,
VISHWANATHA HALLI MAIN ROAD,
GUDDADAHALLI, HEBBALA,
BENGALURU - 32.

...PETITIONER

(BY SRI PARASHURAM R. HATTARAKIHAL, ADVOCATE)

AND:

SMT. ASHA,
W/O SRINIVASA D.,
AGED ABOUT 32 YEARS,
PRIVATE EMPLOYEE,
R/AT NO.531/3, 12TH CROSS,
3RD MAIN ROAD, K.T.J.NAGARA,
DAVANAGERE - 577 002.

...RESPONDENT

(BY SMT.SPOORTHY HEGDE N., ADVOCATE)

THIS RPFC IS FILED UNDER SECTION 19(4) OF THE
FAMILY COURTS ACT PRAYING TO SET ASIDE THE ORDER
DATED 05.01.2023 PASSED IN CRL.MISC.NO.398/2018 ON
THE FILE OF THE JUDGE, FAMILY COURT, DAVANAGERE,
UNDER ANNEXURE-A.





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

CORAM: HON'BLE MR JUSTICE PRADEEP SINGH YERUR

ORAL ORDER

This petition is filed by the petitioner - husband seeking to set aside the order dated 5.1.2023 passed by the learned Judge, Family Court, Davanagere on the application filed by the wife under section 125 of the Code of Criminal Procedure in CrI.Misc. No.398/2018.

2. It is the case of petitioner - husband that the respondent - wife filed a petition under section 125 of the Code of Criminal Procedure before the Family Court, Davangere seeking maintenance of Rs.15,000/- per month and costs of the petition. The petitioner had contested the matter, denied the averments made by the respondent and took up a plea that he is a responsible Government servant and earning a fixed salary by which it is difficult for him to maintain himself. He also took up a plea that the respondent is working as a Staff Nurse in SSI hospital under Employee Code No.292 and has been working in the said hospital since 2012-13 earning salary of Rs.30,000/-



to 40,000/- per month. On these grounds, he seeks dismissal of the petition initiated by the wife seeking for maintenance.

3. The Family Court upon framing relevant issues for consideration and on recording evidence of the parties, based on the materials placed on record allowed the petition of the wife with a direction to the petitioner - husband to pay maintenance of Rs.5,000/- per month from the date of petition and also imposed costs of Rs.1,000/-. Being aggrieved by the impugned order passed by the Family court, the petitioner - husband is before this Court.

4. I have heard learned counsel for petitioner as well as learned counsel for respondent.

5. It is the vehement contention of learned counsel for petitioner that the impugned order passed by the Family Court is perverse, illegal, arbitrary, excessive and opposed to the principles of law and natural justice. Learned counsel further contends that the Family Court committed an error by not allowing the application preferred by the petitioner during the pendency of the main petition, wherein the petitioner sought for production/summoning of salary certificate of the



respondent from her employer under section 91 of Cr.PC. It is further contended by learned counsel that the Family Court in a hasty manner dismissed the said application and concluded the trial within one month without appreciating the materials on record, contentions of the petitioner, thereby causing miscarriage of justice to the petitioner. Hence, the impugned order deserves to be set aside.

5.1 It is further contention of learned counsel that petitioner revealed his assets and liabilities and also his income and avocation, whereas respondent suppressed her employment and salary details in the assets and liabilities, contrary to the judgment of the Hon'ble Apex Court in the case of **Rajnish -vs- Neha and another** reported in (2021)2 SCC 324.

5.2 Learned counsel contends that in the present petition, petitioner filed I.A. No.1/2024 under Section 91 of Cr.PC to summon the salary certificate of the respondent, who is a Staff Nurse (Employment Code No.292) in Institute of Medial sciences and Research Centre, Davangere from the



Director (Administration). The said application is pending consideration.

5.3 Learned counsel for petitioner contends that during the course of arguments, he filed a memo alongwith the salary certificate of the respondent for the month of June-2024 by serving a copy of the same on the learned counsel for respondent. It is contended by learned counsel for the petitioner that respondent is earning a gross pay of Rs.47,770/- as on June-2024 and she is having sufficient income, infact more than that of the petitioner. Petitioner's counsel submits that petitioner is earning net pay of Rs.23,226/- as on November 2022 as a driver in the BMTC, which he has revealed in his assets and liabilities. Whereas, respondent has suppressed her income and employment in her affidavit of assets and liabilities. Therefore, he contends that in view of the sufficient salary being drawn by the respondent, the respondent would not be entitled to maintenance, in accordance with law and the judgment of the Hon'ble Apex Court stated *surpa*. Therefore, he seeks to allow this petition and set aside the impugned order passed by the Family Court.



6. Per contra, learned counsel for the respondent disputes the salary certificate of the respondent produced by the petitioner before this Court and contends that the same is not within his knowledge and would have to be verified from the respondent. It is also contended by him that since this document is produced for the first time before this Court, the genuineness and veracity of the document would have to be tested before the Family court. It is also contended that the income of the petitioner is now enhanced and there would not be any difficulty for the petitioner to pay maintenance as ordered by the Family Court. On these grounds, he seeks dismissal of the petition.

7. I have given my thoughtful consideration to the arguments advanced by learned counsels for the parties.

8. The fact of marriage between the petitioner and the respondent; relationship of husband and wife; employment of the petitioner in BMTC, are all not in dispute. Though the learned counsel for respondent disputes the employment and salary of the respondent now produced by way of salary certificate by the petitioner, on perusal of the salary certificate,



it is seen that the respondent - Smt. Asha .R is working as Staff Nurse in S.S. Institute of Medical Sciences and Research Centre, Davangere and drawing the gross pay of Rs.47,770/- as on June-2024. This very aspect was pleaded by the petitioner in the proceedings before the Family Court. But, in view of want of proper information and details regarding the salary, the Family Court decided the petition otherwise and granted maintenance to the respondent. The Family Court did not have the privilege of looking into this document as it was neither produced nor summoned when the application was made by the petitioner and so also the respondent herself did not voluntarily produce this document.

9. In the judgment rendered by the Hon'ble Apex Court in the case of ***Rajnish -vs- Neha and another*** reported in (2021)2 SCC 324, the purport and intent was to see that justice is done to both the parties and Court expects both the parties to reveal the true facts by way of affidavit/s disclosing the correct assets and liabilities including their respective income to facilitate the Family Court to pass suitable orders with regard to maintenance or alimony.



10. Time and again, it is seen by this Court that in several matters, the parties deliberately do not disclose their correct income, avocation, details of assets and liabilities with an intent to portray lesser income and secure favourable order by misleading and misguiding the Court, which is highly deplorable. In the present case, the respondent has deliberately suppressed the materials, which was well within her knowledge and played mischief and mislead the Court to get a favourable order. The sanctity of the Court and its orders would necessarily have to be respected by all the parties to the proceedings and so also by the learned counsel representing the parties.

11. This Court hopes and trusts that the learned counsels representing the parties advise their respective parties with regard to seriousness and sanctity of the Court orders and also be aware themselves of the sanctity of the Court orders and warn their clients/parties with regard to legal consequences of misleading, misrepresenting, filing false affidavit and adducing false statements on oath by way of oral and documentary evidence.



12. In view of several instances where parties are careless and deliberately making false statements on oath and filing false affidavits, this Court deems it appropriate to direct the Family Court/Trial Court dealing with such matters to initiate suitable action in accordance with law so that careless filing of affidavits and casual approach before the Court while filing assets and liabilities in the form of affidavits and adducing evidence before the Court is curbed and the person at fault is penalized by appropriate action of the Court.

13. At this stage, this Court deems it appropriate to issue following guidelines and directions to Family Courts and trial Courts dealing in maintenance applications:

- a) Family Courts/Trial Courts dealing in maintenance applications shall insist on filing assets and liabilities and expenses as per the judgment in the case of **Rajnish -vs- Neha and another** reported in (2021)2 SCC 324.
- b) If an application is filed to summon salary details or other source of income by either spouse, the same shall be considered favourably, in the interest of justice.



- c) If the Family Courts/Trial Courts are of the opinion that the salary certificates/details and particulars of other source of income are required to decide the maintenance application, it shall do so by passing *suo motu* orders for the same from either or both spouses.
- d) In case of false Affidavits filed on oath and false information given deliberately to mislead and secure favourable orders by such information, the defaulting party shall be liable to face legal consequences in accordance to law.
- e) Any such maintenance secured by way of such misleading and false/wrong information, shall be ordered to be refunded to the aggrieved party.
- f) Maintenance applications both interim and main shall be decided expeditiously.
- g) These Guidelines shall be strictly followed and adhered.

14. Coming back to the present case on hand, in view of the salary certificate of respondent produced by the petitioner, the present matter would have to be remanded back to the Family Court for consideration afresh by taking on record the salary certificate of respondent so placed before this Court and



the Family Court shall decide the matter in a time bound manner, considering the fact that the criminal miscellaneous petition for maintenance was filed in the year 2018.

15. Accordingly, I pass the following:

ORDER

- i) The petition is **allowed**.
- ii) The impugned order dated 05.01.2023 passed in Crl.Misc.No.398/2018 by the Judge, Family Court, Davanagere, is hereby set aside.
- iii) Matter is remanded back to the Family Court, Davanagere, to take into consideration the salary certificate of the respondent-wife and consider the matter afresh and decide the matter in a time-bound manner, considering the fact that the criminal petition was filed in the year 2018.
- iv) The Family Court, Davanagere shall decide the matter expeditiously within three months from the date of receipt of copy of this order.
- v) It is made clear that this Court has not expressed any opinion on the merits of the matter.



- vi) All contentions of the parties are kept open including any action against the respondent-wife.

Registry is directed to send a copy of this order to all the Principal District Judges across the State and so also to the Presiding Officers of the Family Courts with a request to circulate the same among all the judicial officers dealing with maintenance applications in matrimonial proceedings in their respective Units.

**Sd/-
(PRADEEP SINGH YERUR)
JUDGE**

GSS
List No.: 1 Sl No.: 25