



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 3RD DAY OF APRIL, 2025
BEFORE
THE HON'BLE MR JUSTICE PRADEEP SINGH YERUR
WRIT PETITION NO. 16872 OF 2023 (GM-FC)

BETWEEN:

VINOD KUMAR K
S/O LATE KENCHAPPA,
AGED ABOUT 33 YEARS,
R/AT NO. 277
UTTARAHALLIL VILLAGE,
WATER TANK ROAD,
SUBRAMANYA PURA POST,
BENGALURU-560061.

...PETITIONER

(BY SRI. INDRA DHANUSH M A.,ADVOCATE)

AND:

CHAITRA N
W/O VINOD KUMAR.
D/O NAGENDRA G
AGED ABOUT 27 YEARS,
R/AT MALIGONDANAHALLI VILLAGE,
RAMOHALLI POST
KENGARI HOBLI,
BENGALURU SOUTH TALUK,
BENGALURU-562130.

...RESPONDENT

(BY SRI PUNITH.C., ADVOCATE FOR SRI.NARENDRA BABU H
L.,ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 30/03/2023 PASSED BY THE LEARNED I ADDL PRL JUDGE, FAMILY COURT, BENGALURU IN CRL MISC. NO. 188/2019 FOR ERRONEOUSLY ALLOWING THE APPLICATION FILED UNDER SECTION 125 (2) OF THE CODE OF CRIMINAL PROCEDURE BY THE RESPONDENT IN PART, BY DIRECTING THE PETITIONER HEREIN TO PAY INTERIM MAINTENANCE OF





RS. 10,000/- PER MONTH TO RESPONDENT FROM THE DATE OF THE PETITION ALONG WITH LITIGATION EXPENSES OF RS 5,000/- VIDE ANNEXURE-A.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, 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 30.3.2023 passed by the 1st Addl. Prl. Judge, Family Court, Bengaluru, in Crl.Misc. No.188/2019 on the application filed under Section 125(2) of the Code of Criminal Procedure, whereby the learned Judge of the Family Court granted interim maintenance of Rs.10,000/- per month to the respondent - wife from the date of petition alongwith litigation expenses of Rs.5,000/-.

2. It is the case of petitioner - husband that respondent - wife filed a petition under the provisions of Section 125 of the Code of Criminal Procedure before the Family Court, Bengaluru, seeking maintenance. During



the pendency of the main petition, an application came to be filed seeking interim maintenance of Rs.50,000/- per month and litigation expenses of Rs.1,00,000/-. This application was seriously contested by the petitioner - husband. On hearing learned counsels for the parties and on consideration of the assets and liabilities statements filed by both the parties, learned Judge of the Family Court awarded maintenance of Rs.10,000/- per month from the date of petition and litigation expenses of Rs.5,000/-.

3. It is the vehement contention of learned counsel for petitioner that the order passed by the Family Court is illegal, unsustainable and contrary to the material placed on record and based on false affidavit and incorrect submission of facts by the respondent and therefore, the order requires to be set aside. It is further contended that the petitioner is working in BESCO on the basis of the compassionate appointment and earning a salary of Rs.47,240/- per month and his monthly expenses is to an extent of Rs.25,149/-. Apart from salary income, he has



no other source of income and he has stated all these aspects in his assets and liabilities filed by way of affidavit.

3.1 It is further contended by learned counsel for petitioner that though the respondent – wife has filed assets and liabilities initially by way of an affidavit, she has withdrawn the same as it was not in consonance with the judgment of the Hon'ble Supreme Court in the case of ***Rajnish -vs- Neha and another***, (2021)2 SCC 324. The assets and liabilities were initially filed by the respondent on 24.5.2022 and later, it was filed for the 2nd time on 8.11.2022. In both the affidavits filed by the respondent - wife, it is clearly stated that she does not have any source of income and against details of income, she has stated that she is 'housewife - unemployed' and declared her monthly income as 'nil'. Therefore, respondent has totally denied any source of income or any employment on her side. It is also stated that she is having several liabilities due to the loans she availed, which is evident from the affidavit filed by her. In the



column of income of the other spouse – husband, it is stated that petitioner is working in BESCO earning salary of Rs.46,000/-, alongwith rent of two independent houses amounting to Rs.20,000/-.

3.2 It is further contention of learned counsel that based on the assets and liabilities, learned Judge of the Family Court has awarded interim maintenance of Rs.10,000/- per month to the respondent. In the objections statement and also during the course of arguments before the Family Court, the petitioner has taken a clear stand that the respondent - wife is employed and earning and this is denied by the respondent – wife. In the application and during the course of arguments and so also in her cross-examination, respondent denied that she was working as a Guest Teacher and earning income. Learned counsel for the petitioner contends that the respondent made false statements on oath and deliberately not disclosed the true facts and therefore, respondent has no respect to the Court and also the



proceedings before the Court, thereby the respondent has committed the act of perjury.

3.3 During the course of the arguments before this Court, learned counsel for petitioner produced few documents and one such document is the reply dated 29.11.2023 issued by the Field Education Officer on the request made by the petitioner under the RTI Act. In the said reply, it is clearly stated that in place of teacher - Mr.Jagadish Y.N, the respondent - Smt. Chaitra .N performed the duties as a Guest Teacher from 24.8.2022 to 31.3.2023 in the Government Junior Primary School, Lakkayyanapalya, Bengaluru South Zone. Therefore, it is the vehement contention of learned counsel for petitioner that it is apparently clear and evident from the documents produced by the petitioner that the respondent has made false submissions, mislead the Court and suppressed material facts to get favourable order and she has scant respect to the Court and the proceedings of the Court. Therefore, learned counsel seeks to set aside the



impugned order by allowing the present petition and to initiate proceedings against the respondent in accordance with law for making false statements on oath.

3.4 In support of his contentions, learned counsel for the petitioner relies upon the following judgments.

- (i) Nikharika Ghosh -vs- Shankar Ghosh, 2023 SCC OnLine DEL 5624
- (ii) Sushil Kumar -vs- Deepika, 2014 SCC OnLine HP 4898
- (iii) V. Saravanan -vs- Dhanalakshmi, 2019 SCC OnLine Mad 2191
- (iv) S.P. Chengalvaraya Naidu (Dead) by L.Rs. -vs- Jagannath (Dead) by L.Rs., (1994)1 SCC 1

4. Per contra, learned counsel representing the respondent – wife contends that initially when the petition was filed for maintenance, at that point of time, respondent – wife was unemployed and the affidavit came to be filed disclosing the assets and liabilities on 24.5.2022, wherein it is stated that respondent is housewife and shown her monthly income as 'nil'. It is



only thereafter the respondent performed duty as a Guest Teacher for a limited period from 24.8.2022 to 31.3.2023 at Government Junior Primary School on a temporary basis in place of teacher - Mr. Jagadish Y.N. and in the letter dated 29.11.2023 issued by Field Education Officer, which is obtained under the RTI Act, it is clearly stated that respondent would be relieved on 31.3.2023. Learned counsel for respondent contends that since it was a temporary job for a limited period, it cannot be considered as a regular job and therefore in the affidavit of assets and liabilities dated 8.11.2022, the respondent has not stated with regard to the said job and income received from the said job.

4.1 Learned counsel for respondent further contends that respondent has filed an affidavit on 15.11.2024 before this Court, whereby the respondent – wife has clearly stated the circumstances in which she has made statement that she was unemployed and has no source of income. In the affidavit, respondent stated that she was



working as Guest Teacher in Government Junior Primary School for the period from 24.8.2022 to 31.3.2023 and received a sum of Rs.72,000/- as salary during the said period. The respondent has further stated in the affidavit that due to lack of legal knowledge, she did not disclose the said period of working to her counsel and there was no need for her to suppress the said fact. It is also stated in the affidavit that non-disclosure of her temporary job is for the *bonafide* reason and there is no deliberate intention on her part in suppressing her temporary job. Therefore, she tendered unconditional apology by way of an affidavit before this Court for not disclosing with regard to her temporary job in the affidavit of assets and liabilities.

4.2 Learned counsel for respondent further contends that there may be some fault on the part of the respondent in not stating about the income and the job in the affidavit, but that is not deliberate one, but due to lack of legal knowledge and its consequences. He contends that even if the wife is earning some income, that by itself



does not deprive the wife from securing maintenance. Infact, petitioner is in a higher pedestal financially compared to the respondent – wife and he cannot absolve himself of payment of maintenance. On these grounds, learned counsel for respondent seeks to dismiss the petition filed by the petitioner.

4.3 In support of his contentions, learned counsel for respondent relies upon the following judgments:

- (i) *Nidhi Sudan -s- Manish Kumar Khanna*, 2023 SCC OnLine Del 7652
- (ii) *Rajnish -vs- Neha and another*, (2021)2 SCC 324

5. I have given my thoughtful consideration to the arguments advanced by learned counsel for petitioner as well as learned counsel for respondent.

6. In the present case on hand, relationship between the petitioner and the respondent is not in dispute. The issue before the Court is with regard to interim



maintenance which is awarded by the Family Court amounting to Rs.10,000/- per month and the litigation expenses of Rs.5,000/-.

7. As per the judgment of the Hon'ble Supreme Court in the case of **Rajnesh** stated supra, in all the maintenance petitions, parties are duty bound to file assets and liabilities and disclose their true income, avocation, employment and so also details of income, assets and liabilities of the other spouse. In the present case, petitioner – husband has filed assets and liabilities showing the details of his employment, income etc., It is also stated about job of the respondent and what is the income drawn by the respondent – wife. On the contrary, respondent – wife though filed assets and liabilities for the 2nd time on 8.11.2022, very cleverly and intentionally suppressed fact of her employment as a Guest Teacher in Government Junior Primary School and income she is getting from the said employment. Nothing prevented the respondent from saying so in the affidavit of assets and



liabilities and so also in her cross-examination when it is specifically questioned by the petitioner with regard to her employment as a Guest Teacher. In fact, the respondent has categorically denied having worked as Guest Teacher in a Government school from 24.8.2022 to 31.3.2023 in the cross-examination. But, the documents obtained by the petitioner under the RTI Act clearly depicts that the respondent – wife performed the duty as a Guest Teacher in a Government Junior Primary School for the period from 24.8.2022 to 31.3.2023 and it is affirmed now by the respondent by way of filing an affidavit dated 15.11.2024, when this Court directed the respondent to do so. Therefore, it is not in dispute that the respondent – wife performed duty as Guest Teacher in Government Junior Primary school from 24.8.2022 to 31.3.2023. Under these circumstances, it is apparently evident from the records and the cross-examination of respondent that respondent has deliberately suppressed the material facts in the affidavit of assets and liabilities. On the contrary, respondent has filed the affidavit before this Court that



she was not asked by her counsel with regard to disclosing her employment and the income and if it was brought to her notice and knowledge, she would have definitely disclosed the same in the affidavit. The fact that she has sought for unconditional apology itself apparently clear that she has suppressed the true facts before the Court. This kind of suppression of material before the Court with deliberate intention to mislead the Court to obtain a favourable order in the maintenance cases is deplorable and cannot be accepted. Fortunately, the petitioner is able to secure certain information under the RTI Act, due to which Court came to know with regard to employment of the respondent, otherwise, it would not have come to the notice of the Court. Such attitude and behaviour of the respondent before the Court is deplorable and cannot be accepted.

8. In the present case on hand, the income generated by the respondent - wife during her employment as a Guest Teacher was around Rs.10,000/-



to Rs.15,000/-, which is not clearly stated. If the average is taken, it is Rs.12,500/- per month. Whereas, the petitioner – husband is earning Rs.47,240/- and after deduction getting Rs.21,000/- per month.

9. In view of the discussion made hereinabove, it is apparently clear that the respondent – wife was working and capable of working and earning as on the date of filing 2nd affidavit of assets and liabilities before the Family Court. It is not the case of the respondent that she is unable to work and incapable to earn income and therefore to be maintained by the petitioner. It is also stated that there are no children from the marriage. Considering the totality of facts and circumstances of the case, this Court is of the opinion that the respondent – wife would not be entitled to maintenance.

10. The intent of the Hon'ble Supreme Court in the case of **Rajnish** stated *supra* is to render justice to the parties on the basis of self declaration of assets and



liabilities including income and occupation. But, it is seen that in most of the cases, there is deliberate suppression of facts only with an intention to secure favourable order. In view of several instances where parties are careless and deliberately making false statements on oath and filing false affidavits, this Court in RPFC No.24/2023 decided on 20th March 2025 directed 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. This Court issued certain guidelines and directions to the Family Courts/Trial Courts dealing in maintenance applications. Accordingly, this Court deems it appropriate to direct the Family Court to initiate suitable action against the respondent – wife after affording reasonable opportunity to both the parties.



11. Learned counsel for the petitioner submits that in compliance of the order of the Family Court, petitioner has deposited Rs.25,000/- in the execution proceedings. In view of the respondent – wife having suppressed the material facts of her employment and income and this Court coming to the conclusion that the respondent - wife would not be entitled for maintenance, I deem it appropriate to direct the respondent – wife to refund the said amount of Rs.25,000/- to the petitioner – husband.

12. Under the circumstances, I pass the following:

ORDER

- i) The Petition is **allowed**.
- ii) The impugned order dated 30.3.2023 in Crl.Misc. No.188/2019 passed by the 1st Addl. Prl. Judge, Family Court, Bengaluru, is hereby set aside in its entirety.
- iii) The respondent – wife is directed to refund the maintenance amount of Rs.25,000/- (Rupees twenty-five thousand only) to the petitioner –



husband within a period of three weeks from the date of receipt of copy of the order.

- iv) In view of the order passed by this Court in RPFC No.24/2023 dated 20.3.2025 issuing certain guidelines to be followed by the Family Court while dealing with maintenance applications, the Family Court shall adhere to the guidelines and initiate suitable action against the respondent – wife by affording reasonable opportunity to both parties.

Ordered accordingly.

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

GSS
List No.: 1 Sl No.: 39