



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE R. NATARAJ

REVISION PETITION FAMILY COURT NO. 172 OF 2015

BETWEEN:

1. MRS. NILOFER KHANUM
W/O SYED MEHMOOD ALI
AGED ABOUT 29 YEARS,
2. MR. SYED ISMAIL
S/O SYED MEHMOOD ALI
AGED ABOUT 10 YEARS,
SINCE MINOR REPRESENTED BY MOTHER AND NATURAL
GUARDIAN NILOFER KHANUM

BOTH ARE RESIDING AT NO.1395,
DASAPPA GARDEN, CHAMUNDINAGAR,
MAIN ROAD, R.T. NAGAR,
BAGALORE-560032

...PETITIONERS

(BY SRI. S.P.S. KHADRI, ADVOCATE)

AND:

MR. SYED MEHMOOD ALI
S/O SYED HIDAYATHULLA,
AGED ABOUT 33 YEARS,
R/AT FLAT NO.303, 3RD FLOOR,
FIRDOZE APARTMENTS,
NEAR IRLA MASJID,
JUHU SCHEME,
MUMBAI-400049

...RESPONDENT

(BY SRI. ANANDA N, ADVOCATE (ABSENT))

THIS RPFC IS FILED UNDER SECTION 19(4) OF THE FAMILY
COURTS ACT, 1984 AGAINST THE JUDGMENT AND DECREE DATED
24.02.2014 PASSED IN C.MISC.NO.335/2005 ON THE FILE OF THE





IST ADDITIONAL PRL. JUDGE, FAMILY COURT BENGALURU
ALLOWING THE PETITION FILED UNDER SECTION 125 OF Cr.P.C.

THIS PETITION, COMING ON FOR HEARING, THIS DAY, THE
COURT MADE THE FOLLOWING:

ORDER

The petitioners have challenged the judgment dated 24.02.2014 passed by the I Additional Principal Judge, Family Court, Bengaluru (henceforth referred to as 'Trial Court') in C.Misc.No.335/2005 by which, a sum of Rs.1,000/- was ordered to be paid as maintenance to petitioner No.1 and a sum of Rs.500/- per month to petitioner No.2 from the date of filing of the petition till the life time of petitioner No.1 or till she remarry and till petitioner No.2 attains the age of majority.

2. The petitioners filed C.Misc.335/2005 before the I Additional Principal Judge, Family Court, Bengaluru under Section 125 of Cr.P.C. claiming monthly maintenance of Rs.12,500/- to both of them. They contended that petitioner No.1 was given in marriage to the respondent on 18.05.2003 and they lived in Mumbai for a month. However, due to the continuous demand for dowry, they could not live further. Petitioner No.1 alleged that during October, 2003, the



respondent and his family members tried to kill her and therefore, she came to Bengaluru to stay with her parents on 11.11.2003. She delivered petitioner No.2 at Bengaluru on 09.04.2004 and a function arranged for the naming of the child was attended by the respondent and his parents, who demanded an additional dowry of Rs.2,00,000/-. She claimed that she had no source of income and dependant on her aged parents. She claimed that petitioner No.2 was admitted at George English School and that she was in need of a sum of Rs.7,500/- per month to meet his educational expenses. She therefore, prayed that a sum of Rs.12,500/- be awarded as monthly maintenance to both of them.

3. The said petition was opposed by the respondent who denied that he had treated the petitioners cruelly. He contended that there was no contact with petitioner No.1 after 11.11.2003 and a false complaint was filed by petitioner No.1 in PCR No.15766/2004 alleging dowry harassment and cruelty. He claimed that he divorced petitioner No.1, which was intimated to her by a notice dated 30.09.2004 and also paid a sum of Rs.3,786/- towards mehar. He alleged that all the jewels were taken away by petitioner No.1 when she left her



matrimonial home. He claimed that father of petitioner No.1 had a lucrative business and was running S.R.K. Borewells at CBI Road, Gangenahalli, Bengaluru and petitioner No.1 is employed at HDFC Bank. He claimed that he was a tailor by profession and was earning Rs.2,000/- per month under his brother Mr. Kasim and therefore, he did not have any source of income to pay any maintenance to the petitioners.

4. Petitioner No.1 was examined as PW.1 and she marked Ex.P1, while respondent was examined as RW.1 and he marked Exs.R1 to 11.

5. Based on the oral and documentary evidence, the Trial Court held that there was no dispute that petitioner No.1 was the wife of the respondent and though the respondent claimed that petitioner No.1 was educated and employed, he did not produce any document to establish the same. Petitioner No.1 also did not produce any document to establish that the respondent had any adequate source of income to pay a sum of Rs.12,500/- per month. Therefore, the Trial Court taking into consideration the fact that the petitioners were residing along with parents of petitioner No.1, directed the payment of a sum



of Rs.1,000/- per month to petitioner No.1 during her lifetime or till she get remarried and a sum of Rs.500/- per month till petitioner No.2 attains the age of majority.

6. Being aggrieved by the said order, the petitioners are before this Court seeking enhancement.

7. The learned counsel for the petitioners submitted that during the pendency of the proceedings before the Trial Court, petitioner No.1 had married another person and therefore, her claim for maintenance is only from the date of the petition till the date she got married i.e., during January, 2014. He also contended that petitioner No.2 is now a major by age.

8. The learned counsel for the respondent has not appeared. Therefore, this Court did not have the benefit of the submission of the learned counsel for the respondent.

9. Having regard to the fact that the respondent did not dispute that petitioner No.1 was his wife and petitioner No.2 was his son and also having regard to the fact that the respondent was a able-bodied man working at Mumbai, the Trial Court ought to have awarded a reasonable amount of



maintenance taking into account the needs and necessities of a person living in a Metropolitan City like Bengaluru. The Trial Court also did not take into consideration the educational expenses of petitioner No.2 but blindly awarded a sum of Rs.1,500/- per month as maintenance for both of them. Having regard to the fact that neither the petitioners nor the respondent made any efforts to produce adequate materials to establish the income of the respondent, in the fitness of things, this Court considers it appropriate to award a sum of Rs.3,000/- per month to petitioner No.1, which shall be from the date of the petition filed before the Trial Court till January, 2014 when petitioner No.1 married another person. Since petitioner No.2 has now attained the age of majority, he is entitled to a sum of Rs.2,000/- per month from the date of marriage till the date he attained the age of majority.

10. In that view of the matter, this petition is ***allowed in part.*** The monthly maintenance of Rs.1,500/- awarded by the I Additional Principal Judge, Family Court, Bengaluru by its judgment dated 24.02.2014 passed in C.Misc.No.335/2005 is modified. The respondent is directed to pay the maintenance at a sum of Rs.3,000/- per month to petitioner No.1 from the



date of filing of the petition before the Trial Court till January, 2014. He shall also pay a sum of Rs.2,000/- per month to petitioner No.2 from the date of filing the petition before the Trial Court till the date he attained the age of majority.

11. In view of the disposal of the petition, pending I.As., if any, do not survive for consideration and the same stand dismissed.

12. The Registry is directed to return the Trial Court records forthwith.

Sd/-
JUDGE