



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF DECEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE R. NATARAJ

REVISION PETITION FAMILY COURT NO. 292 OF 2022

BETWEEN:

MR.JAYANTH
S/O LATE DEJAPPA POOJARY,
AGED ABOUT 38 YEARS,
R/AT SHREE BHRAMARI,
DOOR NO.22-34, JYOTHI NAGARA,
KULASHEKARA,
MANGALURU-575028.

...PETITIONER

(BY SRI. AJAY PRABHU M., ADVOCATE)

AND:

TISHA
D/O JAYANTH,
AGED ABOUT 8 YEARS,
R/AT G-2, VIGNESHWAR APARTMENT,
BEHIND VEEKAY PARK, URWA STORE,
ASHOKNAGAR POST,
MANGALURU-575006.

MINOR, REPRESENTED BY HER
NATURAL GUARDIAN,
MRS. SHRUTHI B.K.,
D/O KISHORE B.K,
AGED ABOUT 32 YEARS,
R/AT ABOVE ADDRESSES.

...RESPONDENT

(BY SRI. RAKESH KINI, ADVOCATE)

THIS RPFC IS FILED UNDER SECTION 19(4) OF THE FAMILY
COURTS ACT, 1984 AGAINST THE ORDER DATED 28.10.2022
PASSED IN CRL.MISC.Case.NO.20/2021 ON THE FILE OF THE





PRINCIPAL JUDGE, FAMILY COURT, D.K., MANGALURU, PARTLY
ALLOWING THE PETITION FILED UNDER SECTION 125 OF Cr.P.C FOR
MAINTENANCE.

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

ORDER

The petitioner has challenged an order dated 28.10.2022 passed by the Principal Judge, Family Court, Dakshina Kannada, Mangaluru, (henceforth referred to as 'the Family Court') in CrI Misc. Case No.20/2021 by which the petitioner herein was directed to pay maintenance of Rs.5,000/- per month from the date of the petition till the marriage of the respondent herein.

2. The respondent is the daughter of the petitioner. The marriage of the petitioner and his wife was dissolved in terms of decree of dissolution of marriage by mutual consent passed by the Family Court in M.C. No.229/2017 dated 18.01.2018. Later, the respondent through her mother initiated proceedings in CrI.Misc. case



No.20/2021 under Section 125(1)(b) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') *inter alia* claiming maintenance of Rs.20,000/- per month from the petitioner herein .

3. The petitioner herein contested the proceedings and claimed that his ex-wife had agreed to take care, maintenance of the child/respondent herein and therefore, he is not liable to meet the maintenance expenses of the respondent herein.

4. The Family Court after considering the contentions urged, passed an order directing the petitioner to pay the sum of Rs.5,000/- per month as maintenance to the respondent herein from the date of the petition till her marriage.

5. Being aggrieved by the same, the petitioner has filed this petition.

6. Learned counsel for the petitioner has reiterated his contentions as above and contended that the



petitioner is now married and also has a family to look after and therefore, the order passed by the Family Court directing the petitioner herein to pay maintenance is not only causing inconvenience but also has caused hardship to the petitioner and his family members. He submits that the petitioner's ex-wife had taken the responsibility of bringing up the child. She again used the child and launched a claim for maintenance for the child.

7. Learned counsel for the respondent, on the other hand, contended that the ex-wife of the petitioner had no authority to give up the claim for maintenance of the respondent as the respondent has an independent right to claim maintenance from the petitioner. In this regard, he relied upon the judgment of the Hon'ble Apex Court in the case of ***Ganesh v. Sudhirkumar Shrivastava and Others [(2020) 20 SCC 787]*** and contended that the respondent is entitled to claim maintenance from the petitioner.



8. I have considered the submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondent.

9. There is no dispute that the respondent is the daughter of the petitioner. There is also no dispute that the ex-wife of the petitioner had undertaken to meet the maintenance expenses of the respondent. The question that would arise for consideration is whether the ex-wife of the petitioner could have waived the right to claim maintenance for the child / respondent herein from the petitioner. The answer to the said question is no longer *res integra* and in view of the judgment of the Hon'ble Apex Court **Ganesh's case** cited above, the respondent was entitled to claim independently the maintenance to which she was entitled from the petitioner. Even otherwise, a perusal of the impugned order does not show that the order passed by the Family Court directing the petitioner herein to pay the sum of Rs.5,000/- is neither improper nor unjust. On the contrary, in the facts and



circumstances of the case, the impugned order is just and proper having regard to the fact that the child is now 8 years old. Hence, there is no ground made out to interfere with the impugned order passed by the Family Court.

10. Hence, the petition lacks merit and is dismissed.

Sd/-
JUDGE