

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 31<sup>ST</sup> DAY OF AUGUST 2017

BEFORE

**THE HON'BLE MR. JUSTICE K.N.PHANEENDRA**

**RPFC No.200065/2017**

**Between:**

Laxman @ Rajesh  
S/o Thukamanna M. Gouli  
Age: 29 years, Occ: Coolie  
R/o No.125, Modikhane  
Near Ganapathi Mandir  
Solapur, Maharashtra State

**... Petitioner**

**(By Sri Krupa Sagar Patil, Advocate)**

**And:**

Ashwini  
W/o Laxman @ Rajesh  
Aged about 24 years  
Occ: Household  
R/o H.No.4-3-226/146  
Mangalwar Pet  
Raichur – 584 101

**... Respondent**

This RPFC is filed under Section 19(4) of the Family Courts Act praying to allow the revision petition and set aside the order dated 21.02.2017 passed by the Principal Judge, Family Court, Raichur, in CrI.Misc.No.169/2016.

This petition coming on for Admission this day, the Court made the following:

**ORDER**

Heard the learned counsel for the petitioner.  
Perused the records.

2. The petitioner is the husband and respondent is the wife. There is no dispute with regard to the relationship. The respondent-wife claiming that her husband has neglected and refused to maintain her and ousted her from the matrimonial home has filed a petition under Section 125 of Cr.P.C. claiming maintenance of Rs.15,000/- per month. Both the parties have contested the proceedings and they examined themselves as PW.1 and RW.1 respectively. Appreciating the oral evidence furnished by the parties, the Court has come to the conclusion that the wife is entitled for maintenance.

3. The main concentration has been bestowed by the learned counsel for the petitioner on the quantum of maintenance awarded by the Trial Court. It is contended that the petitioner is a coolie worker and he may not afford to pay maintenance amount of Rs.5,000/- awarded by the Trial Court. It is contended that he has to maintain his father, mother and four sisters contributing his earnings to the family. Therefore, the petitioner is before this Court challenging the quantum of maintenance awarded by the Trial Court.

4. As could be seen from the appreciation of evidence by the Trial Court, the Trial Court has considered all these aspects. It is contended that the petitioner is having a house consisting six rooms and admittedly, he is getting rent of Rs.700/- per month. Though he has got six rooms, he says that he has rented only one room. Therefore, the Trial Court has

come to the conclusion that such admission cannot be relied upon, nevertheless, he has accepted the existence of a house comprising six rooms. It is also contended that he is a coolie worker and gets Rs.250/- per day. Considering the above factual aspects and also that the wife is unemployed and she is unable to maintain herself, the Court has awarded an amount of Rs.5,000/- per month. In my opinion, it is bare minimum amount awarded by the Trial Court granting maintenance.

5. Under the above circumstances, while exercising power under Section 19(4) of the Family Courts Act, the Court has to see propriety, illegality or correctness of the order passed by the Trial Court and should not venture upon to deal with factual appreciation of facts by the Trial Court. If miscarriage of justice has been occurred or if the order of the Trial Court is so unreasonable in fixing the maintenance

amount, then only, this Court can interfere with the impugned order passed by the Trial Court. I do not find any such miscarriage of justice or unreasonable fixation of maintenance amount. Hence, no interference is called for. Therefore, the petition is liable to be dismissed at the threshold itself and the same is dismissed.

**Sd/-  
JUDGE**

NB\*