



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 16639 OF 2024 (GM-FC)

BETWEEN:

SRI MOHAN N
S/O NANDA KOMAR C
AGED MAJOR, 38, R/AT NAIDU NILAYA,
1208 N.M.C., 1ST CROSS, LEFT SIDE HOSAMANA
OLD TOWN, BHADRAVATHI-577301
SHIVAMOGGA

...PETITIONER

(BY SRI. SAPPANNAVAR BASAVARAJ SHIVAPPA., ADVOCATE)

AND:

1. SMT. TARA H J
W/O MOHAN N., AGED MAJOR,
R/O NO. 9, SHYAM NILAYA, GROUND FLOOR
1 MAIN, LAXMISAGAR LAYOUT,
MAHADEVAPURA POST,
WHITEFIELD MAIN ROAD, BANGALORE-560048.

2. RIDDHI NAIDU
D/O MOHAN N., AGED 6 YEARS,
MINOR, REP. BY MOTHER
R/O NO. 9, SHYAM NILAYA, GROUND FLOOR
1 MAIN, LAXMISAGAR LAYOUT,
MAHADEVAPURA POST WHITEFIELD MAIN ROAD,
BANGALORE-560048.

...RESPONDENTS

(BY SMT. NANDITA D HALDIPUR., ADVOCATE)



THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED ORDER DATED 17.10.2023 AT ANNEXURE-D PASSED ON I.A.NO.2 BY THE V ADDL. PRINCIPAL JUDGE, FAMILY COURT AT BENGALURU IN CRL.MISC.NO.105/2019 AND TO DISMISS I.A.NO.2 FILED BY THE RESPONDENTS U/S 125(1) OF CR.P.C.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE ASHOK S.KINAGI

ORAL ORDER

This writ petition is filed challenging the order on I.A.No.II dated 17.10.2023 passed in Crl.Misc.No.105/2019 by the V Additional Principal Judge, Family Court, Bengaluru.

2. Brief facts leading rise to the filing of this writ petition are as follows:

Respondent No.1 is the wife of the petitioner. Respondent No.2 is the daughter of the petitioner and respondent No.1. The petitioner's marriage was performed with the respondent on 12.12.2013. Out of their wedlock, they were blessed with a child, who is respondent No.2.



The respondent No.1 was subjected to cruelty. The petitioner neglected the respondents. The respondent No.1 is unemployed and has no source of income to maintaining herself and her daughter. The respondents require at least Rs.45,000 p.m; for their livelihood. The petitioner is working as a Security Analyst Senior in Akamai Technologies India Company, earning a sum of Rs.81,667/- p.m. and also annual bonus of Rs.10,78,000/-. The respondents filed a petition under Section 125 of Cr.P.C, which is registered as CrI.Misc.No.105/2019. In the said proceedings, the respondents filed an application in I.A.No.II seeking interim maintenance. The said application was allowed vide order dated 17.10.2023 and awarded the interim maintenance of Rs.20,000/- p.m, to respondent No.2 from the date of application. The petitioner, aggrieved by the order on I.A.No.II dated 17.10.2023, passed in CrI.Misc.no.105/2019, filed this writ petition.



3. Heard the learned counsel for the petitioner and learned counsel for the respondents.

4. Learned counsel for the petitioner submits that, the interim maintenance granted to respondent No.2 is exorbitant. He submits that, the respondent No.1 is a B.E graduate and who is employed, and has a sufficient income to support herself and her daughter. He submits that, the petitioner has obtained a personal loan from Citi Bank and a home loan. The petitioner has to repay the loan amount. He submits that, the petitioner has filed a petition under Section 9 of the Hindu Marriage Act in M.C.No.4359/2019, but the respondent No.1 is unwilling to join the petitioner's company. He submits that the respondent No.1 can take care of respondent No.2 as she has a sufficient source of income. He submits that, respondents filed I.A.No.II with an intention to harass the petitioner. Hence, on these grounds, prays to allow the writ petition.



5. Per contra, learned counsel for the respondents submits that the petitioner is the father of respondent No.2. He is under legal obligation to maintain his daughter, and he should take care of her educational expenses, etc. In the instant case, the petitioner is avoiding legal obligation. She submits that, the trial Court was justified in passing the impugned order. Hence, on these grounds, prays to dismiss the writ petition.

6. Perused the records and considered the submissions of the learned counsel for the parties.

7. There is no dispute in regard to the relationship between the petitioner and respondents and also the petitioner and respondents are residing separately. Respondent No.1 has no source of income to support herself and her daughter. The respondents filed a petition under Section 125 of Cr.P.C, seeking maintenance. The respondents filed an application in I.A.No.II seeking interim maintenance. Admittedly, the respondent No.1 is a B.E graduate and the petitioner is working as a Security



Analyst Senior and drawing a salary of Rs.81,667/- p.m. and also annual bonus of Rs.10,78,000/-, Respondent No.1 is an earning member. The petitioner, and respondent No.1 are equally liable to take care of their child by providing good education to respondent No.2. The petitioner being the father is legally bound to maintain his daughter i.e., respondent No.2, merely contending that he has obtained a loan from various banks is not a ground to deny the payment of maintenance. Considering the income of both the petitioner and respondent No.1, the trial Court was of the opinion that Rs.20,000/- p.m is sufficient for the maintenance of Respondent No.2 as well as educational expenses per month. Merely, the mother is an earning member, that is not a ground for the petitioner from escaping the liability. The respondent No.2 is about 6 years old. Considering the age and financial status of the petitioner, and respondent No.1, the trial Court was justified in awarding maintenance of Rs.20,000/- p.m, to respondent No.2. It is the equal responsibility of the father and mother to take care of their child. The trial



Court, considering the material on record, was justified in passing the impugned order. Learned counsel for the respondent has filed a memo of calculation wherein the petitioner has not paid the arrears of maintenance. The petitioner is due for a sum of Rs.5,40,000/-. The petitioner is not regularly paying the interim maintenance. Hence, I do not find any error in the impugned order.

8. Accordingly, I proceed to pass the following:

ORDER

The writ petition is dismissed.

Sd/-
(ASHOK S.KINAGI)
JUDGE

SKS