



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF FEBRUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

REV. PETITION FAMILY COURT NO.233 OF 2023

BETWEEN:

SRI. Y. G. RAJESH
S/O M. GINI SWAMY
AGED ABOUT 36 YEARS
R/A YACHNAHALLI VILLAGE
BANNUR HOBLI
T NARASIPURA TALUK
MYSURU – 571 101

...PETITIONER

(BY SRI. VISHWANATH KANA VI, ADVOCATE)

AND:

1. SMT. M RAMYA
W/O Y. G. RAJESH
D/O MAHALINGU
AGED ABOUT 29 YEARS
2. KSHAMAYA
D/O Y.G. RAJESH
AGED ABOUT 3 YEARS
SINCE MINOR REPRESENTED
BOTH RESIDING AT
BY MOTHER SMT. RAMYA
R/A 1/27, 1ST CROSS,
4TH MAIN ROAD, SHAKTINAGAR
MYSURU – 570 029.

...RESPONDENTS

(BY SRI.NARASIMHA MURTHY K, ADVOCATE FOR R1
(R2 MINOR REPRESENTED BY R1)



THIS RPFC IS FILED UNDER SECTION 19(4) OF FAMILY COURT ACT, AGAINST THE ORDER DATED 16.08.2023 PASSED IN CRL.MISC.NO.329/2020 ON THE FILE OF THE I ADDITIONAL PRINCIPAL JUDGE FAMILY COURT, MYSURU, PARTLY ALLOWING THE PETITION FILED UNDER SECTION 125 OF Cr.P.C FOR SEEKING MAINTENANCE.

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

ORDER

The petition is filed by the husband challenging the order dated 16.08.2023 passed by I Addl. Prl. Judge. Family Court, Mysuru, in Crl.Misc.No.329/2020 on the ground that the maintenance amount granted to the wife and child is excessive one.

2. The relationship between the petitioner and respondents as husband, wife and daughter, is not disputed.

3. On certain allegations that petitioner has ill-treated the respondent No.1/wife and subjected her to cruelty and harassment, the respondents are constrained to live separately and therefore for maintaining life, respondents filed a petition under Section 125 of Cr.P.C.



The Family Court has granted maintenance amount of Rs.15,000/- to respondent No.1/wife till her lifetime or till she remarries and Rs.10,000/- to the respondent No.2/daughter till her marriage along with cost of litigation of Rs.10,000/-. This order is under challenge in this petition.

4. Though the impugned order is a common order passed on the petition filed for divorce by the husband, petition for restitution of conjugal rights and for maintenance filed by the wife and daughter, but this petition is confined only to the order passed on the petition filed under Section 125 of Cr.P.C. challenging the quantum of maintenance awarded by the Family Court.

5. The respondent No.1/wife does not have any source of income and the petitioner/husband has not produced any evidence in this regard to prove that wife is earning and hence, she is not entitled to any maintenance. Whereas, evidence on record Ex.R-1 - salary certificate of the petitioner/husband proves that he is working as



Manager in State Bank of India receiving gross salary of Rs.94,840/- per month as on the petition pending before the Family Court. Before this Court the petitioner has filed a memo along with pay slip for the month of December' 2023 generated by State Bank of India - HRMS Department, which prove the gross salary of the petitioner is Rs.1,01,628.41. Though learned counsel for the petitioner submitted that after deduction of Rs.23,812.17, the take home salary of the petitioner/husband is Rs.77,816/- per month. Therefore, argued that he is not able to pay maintenance to the wife and child as ordered by the Family Court.

6. Upon considering the submissions of the learned counsel for the petitioner/husband, though there is savings of exorbitant quantum of amount made deductible just to negate giving maintenance to the wife and child, what are the compulsorily amounts to be deducted are income tax and professional tax. But considering deductions from the salary of petitioner/husband, those



are provident fund contribution, house rent recovery, furniture recovery, towards loan obtained by the petitioner/husband, LIC premium and festival advance, these are all deductions accruing to the benefit of petitioner only. These amounts cannot be made deductible while considering for assessment of maintenance amount.

7. While appreciating salary/income of the husband above stated deductions cannot be considered while calculating salary of husband. If this is allowed, then in every case of petition filed under Section 125 of Cr.P.C. there would be tendency by the husband to create artificial deductions making an attempt to show lesser take home salary with an intention to mislead the Courts in order to negate to give maintenance or an attempt to award to make lesser amount of maintenance. Therefore, if the Court finds that the deductions are artificial deductions in the manner above discussed, then the Court has to consider the entire evidence on record on all its



preponderance of probabilities while awarding quantum of maintenance amount. The deductions as above stated will ultimately enure to the benefit of the husband only. Suppose if the husband raises loan for purchase of site, house or car and the deduction is made from the salary and shown in his salary certificate, ultimately that raising of loan is for the benefit of husband only and just because deductions are made in this regard, it is not the ground to award lesser quantum of maintenance.

8. In the present case, the deductions is more than 50%, hence, it is proved that the husband has made an arrangement to show more deductions with an intention to pay lesser amount of maintenance. Therefore, the said deductions above discussed cannot be the factor to award lesser quantum of maintenance to the wife. In the present case, it is admitted that the petitioner/husband is a Branch Manager working in State Bank of India receiving salary of more than Rs.1,00,000/- per month. Then the Family Court is correct in awarding



maintenance award of Rs.15,000/- per month to the wife and Rs.10,000/- per month to the child/daughter, which needs no interference by this Court.

9. Therefore, it is proved that the respondents have become destitute at the hands of the petitioner and the petitioner is working as Manager in State Bank of India and receiving a lucrative salary per month and thus upon considering all these facts and circumstances, it is proved that the petitioner is financially capable person to maintain his wife and daughter. Thus, order passed by the Family Court need not be interfered with and as such, the petition is dismissed being devoid of merits with cost of Rs.15,000/- payable to the respondents by the petitioner herein.

**Sd/-
JUDGE**

DR
List No.: 2 SI No.: 3