



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD DAY OF APRIL 2026

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.



REVISION PETITION FAMILY COURT NO. 100139 OF 2025

BETWEEN:

SRI. GURUPRASAD
S/O VIRAPAXAYYA HIEMATH,
AGE: 43 YEARS, OCC: NIL,
R/O: ARALIKATTI,
NEAR HIEMBAGEWADI,
TQ. AND DIST: BELAGAVI- 590001.

...PETITIONER

(BY SRI. M.C. HUKKERI, ADVOCATE)

AND:

1. SMT. SANGEETA
W/O GURUPRASAD HIEMATH,
AGE: 40 YEARS,
OCC: HOUSEHOLD WORK,
R/O: C/O. NINBAKA M. HIEMATH
GUNDAKARAJGI SIDDAPUR P. TALIKOTI,
BIJAPUR- 586101.
2. KUMARI. VISHNUPRASAD
S/O GURUPRASAD HIEMATH,
AGE: 20 YEARS, OCC: STUDENT,
R/O: C/O: NINBAKA M. HIEMATH
GUNDAKARAJGI SIDDAPUR P. TALIKOTI,
BIJAPUR- 586101.
3. KUMARI. PRABHANJAN
S/O GURUPRASAD HIEMATH,
AGE: 18 YEARS, OCC: STUDENT,





R/O: C/O: NINBAKA M. HIEMATH
GUNDAKARAJGI SIDDAPUR P. TALIKOTI,
BIJAPUR- 586101.

4. KUMAR. PAVAN
S/O GURUPRASAD HIEMATH,
AGE: 15 YEARS, OCC: STUDENT,

(PETITIONER NO. 4 IS MINOR
REPRESENTED BY THEIR NATURAL
MOTHER/ NEXT FRIEND PETITIONER NO.1
SMT. SANGEETA
W/O GURUPRASAD HIEMATH,
R/O: C/O: NINBAKA M. HIEMATH
GUNDAKARAJGI SIDDAPUR P. TALIKOTI,
BIJAPUR)

5. SMT. LEELAVATI
W/O VIRUPAXAYYA HIEMATH,
AGE: 63 YEARS, OCC: HOUSEHOLD WORK,
R/O: H.NO.925 BRAMH NAGAR,
C/O. DR: SAMBREKAR HOUSE KAKATI,
TQ: AND DIST: BELAGAVI- 590001.

...RESPONDENTS

(BY SRI. ANAND ASHTEKAR, ADVOCATE FOR R1 & R2 & R5;
SRI. PRANAV UMESH BADAGI, APPOINTED AS COURT
GUARDIAN FOR R4
R3- NOTICE HELD SUFFICIENT)

THIS RPFC IS FILED UNDER SECTION 19(4) OF THE
FAMILY COURT ACT, PRAYING TO SET ASIDE THE JUDGMENT
AND DECREE PASSED BY THE COURT OF PRINCIPAL JUDGE,
FAMILY COURT, BELAGAVI IN CRL.MISC.NO.201/2022 DATED
11.02.2025 AND DISMISS THE PETITION IN THE INTEREST OF
JUSTICE AND EQUITY.

THIS PETITION COMING ON FOR ADMISSION THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MRS JUSTICE GEETHA K.B.



ORAL ORDER

1. Even though the case is at the stage of hearing on I.A.s, with the consent of both sides, heard arguments on merits.
2. This revision petition is filed under Section 19(4) of the Family Courts Act, 1984, challenging the order dated 11.02.2025 passed in Crl.Misc.No.201/2022 on the file of Principal Judge, Family Court, Belagavi (hereinafter referred to as 'the Trial Court', for brevity), whereby maintenance of ₹10,000/- per month is awarded to petitioner No.1 (present respondent No.1) and ₹5,000/- each is awarded to petitioner Nos.2 to 5.
3. The parties are referred with their ranks as they were before the Trial Court for the sake of convenience and clarity,



4. Petitioner Nos.1 to 5 filed the petition under Section 125 Cr.P.C., seeking maintenance of ₹45,000/- per month along with litigation expenses of ₹10,000/-.
5. The case of the petitioners before the Trial Court, in nut shell is that;
 - 5.1. Petitioner No.1 is the legally wedded wife of respondent; petitioners No.2 to 4 are the children of petitioner No.1 and respondent; and petitioner No.5 is the mother of the respondent.
 - 5.2. It is stated in the petition that the marriage of petitioner No.1 with respondent was solemnized on 14.02.2005 at Kadroli Math, M.K. Hubballi, as per Hindu rites and customs prevailing in their community. After the marriage, they led happy marital life. The parents of petitioner No.1 spent substantial amount on the marriage and provided gold, costly clothes, utensils, and other articles etc., by raising loans from friends and relatives.



- 5.3. Petitioner No.1 and respondent led happy marital life till 2010. Thereafter, respondent allegedly developed illicit relationship with one Smt. Sudha, and out of the said relationship, they got a daughter named Nikita, aged about 12 years, and a son aged about 8 years.
- 5.4. Subsequently, respondent stopped providing food, clothing, and medical expenses to the petitioners and started harassing petitioner No.1 both physically and mentally, demanded dowry for construction of house. The parents of petitioner No.1 were unable to satisfy these demands of respondent due to their poor financial condition.
- 5.5. It is further alleged that the respondent is addicted to bad vices such as drinking alcohol and would return home late at night in an intoxicated state and was mercilessly assaulting and abusing petitioner No.1. He also prevented



her from communicating with her parents. Petitioner No.1 kept mum in the hope that the respondent would reform and they may lead happy marital life. However, respondent ultimately drove the petitioners out of matrimonial home after snatching her gold ornaments. Thus, petitioner Nos.1 to 4 took shelter in the parental home of petitioner No.1. Thereafter, parents of petitioner No.1 went to the house of respondent with elders of their locality to reconcile, but respondent refused and allegedly assaulted his mother.

5.6. Petitioner No.5, the mother of the respondent, is also started residing separately in a rented house and is unable to maintain herself.

5.7. Petitioner Nos.1 to 4 are staying in parental house of petitioner No.1 and they claim that they require at least ₹35,000/- per month for their



livelihood, while petitioner No.5 requires ₹10,000/- per month for her livelihood.

5.8. It is contended that the respondent is financially capable, as he runs a photo studio employing four persons and earns ₹70,000–₹80,000 per month. He is also working as pujari (priest) as per the customs in the Lingayath community and performing marriages and earning approximately ₹40,000/- per month. He also owns a house. Hence, he is capable of paying the maintenance as claimed in the petition. Hence prayed for allowing the petition.

5.9. After service of notice, respondent appeared through his counsel and filed objections, wherein he admitted his relationship with petitioner No.1 and also admitted that petitioner Nos.2 and 3 are his children, and that petitioner No.5 is his mother, but denied his relationship with petitioner No.4. He contended that he is working



as a driver. He further stated that, after his marriage, petitioner No.5 had sold 4 acres of land for ₹1,65,000/- per acre and a house for ₹2,80,000/- without any legal necessity, and that even a single pai was not given to him, and now no property is left out in their family.

5.10. Respondent claimed that he used to go to the place of petitioner No.1 and repeatedly requested petitioner No.1 to join him, but she refused, alleging that petitioner No.5 had cheated her and spoiled her life. He further contended that, after the birth of petitioner No.3, he has no relationship with petitioner No.1 and there has been no cohabitation between him and petitioner No.1 since December 2008, and therefore petitioner No.4 is not his child.

5.11. He further stated that, petitioner No.5, without his knowledge, arranged his marriage forcibly with one Smt.Shobha on 09.07.2010 in a rented



house at Sayadri Nagar, Belagavi and out of the said wedlock, he got two children, namely Nikita (born on 20.03.2011) and Vishal (born on 18.01.2014). He is currently residing in the parental house of his second wife.

5.12. In spite of these things, respondent has looked after petitioner No.5 and took care of her, but she left the house of respondent and started living with her daughters-Smt.Sunita and Smt.Manjula at Kakati. Respondent denied that petitioner No.5 is residing in a rented house as alleged in the petition. He also stated that, due to financial constraints, he was not in a position to pay house rent and hence shifted his residence to the parental house of his second wife at Aralikatti Village of Belagavi Taluk.

5.13. He further contended that, petitioner No.5 sold family properties without there being any necessity and left the respondent destitute. He



stated that he worked as driver with VRL for two years and then in Aditya Milk, Kurgund for 8 years. Thereafter, after COVID-19 he started working in photo studio at Aralikatti owned by one Sri Somu Bannur of Neginal Village, earning ₹5,000-₹6,000 per month and leading his life. Respondent is doing only pooja and not performing marriages as alleged in the petition.

5.14. Respondent blindly believed petitioner No.5 and was under *bonafide* belief that she being his mother, she will take decision for his benefit, but petitioner No.5 instigated petitioner No.1 to file the present petition only to harass him. He contended that he has neither neglected nor deserted the petitioners, but rather petitioner No.1 deserted him about 15 years prior to the filing of statement of objections, and thus, he is not liable to pay maintenance to petitioner No.1.



Hence, prayed for dismissal of the petition with costs.

5.15. After recording evidence of both sides and hearing arguments of both sides, the Trial Court has granted maintenance amount of ₹10,000/- per month to petitioner No.1, ₹5,000/- each to petitioners No.2 to 5, totally ₹30,000/- and directed the respondent to pay maintenance amount from the date of petition.

6. Aggrieved by said order, respondent has filed the present revision petition.

7. Heard arguments of both sides.

8. Learned counsel for revision petitioner/respondent, Sri. M.C.Hukkeri would submit that:

8.1. He is not liable to pay any maintenance to all the petitioners because petitioner No.1 voluntarily deserted him and petitioners No.2 and 3 are



having separate source of income because they are living separately since 15 years without any maintenance from respondent and thus they are having separate source of income.

8.2. Petitioner No.5 is mother of respondent, but she is having separate source of income and hence respondent is not liable to pay any maintenance to petitioners No.1 to 3 and 5 and further petitioner No.4 is not the son of respondent. Presently petitioner No.2 has attained majority and thus respondent is not liable to pay any maintenance to him.

8.3. Petitioner No.5 has sold all the agricultural lands standing in her name and also the house property and now respondent is on streets. He does not own any property in his name. He is working in a photo studio as an employee and not the owner of photo studio. Hence, he is not



in a position to pay any maintenance even to petitioner No.5. Petitioner No.5 is working in a mess and getting salary of ₹10,000/- per month as admitted by her. Hence, she is capable to maintain herself. As petitioner No.1 voluntarily deserted him since 15 years, he is not liable to pay any maintenance to her. Hence, prayed for allowing the revision petition.

9. Learned counsel for respondents, Sri.Anand Ashtekar would submit that:

9.1. Petitioner No.1 is the legally wedded wife of respondent. Petitioners No.2 to 4 are children born out of the said wedlock. Respondent has not produced any material before Court to show that there was no access in between petitioner No.1 and respondent at the time of birth of petitioner No.4. Hence, petitioner No.4 is



presumed to be the son of petitioner No.1 and respondent.

9.2. Admittedly, respondent married another woman and leading life with her and hence petitioner No.1 is entitled for separate maintenance. Petitioners No.2 to 4 are not having any separate source of income. Presently, petitioner No.2 attained majority but at the time of filing petition he was minor. Hence, he is entitled for maintenance amount till he attained majority.

9.3. The birth certificate of petitioner No.4 could not be produced because it is not obtained by petitioner No.1 and respondent. Petitioner No.5 is none other than the mother of respondent and aged more than 70 years. Hence, it is the bounden duty of respondent being son to look after his mother.



9.4. Respondent also admitted that petitioner No.5 is suffering from old aged ailments like BP and diabetes. Hence, it is becoming very difficult for her to do any work. But by force she is doing work and getting a meager income, which is not sufficient for her livelihood. Hence, respondent is bound to maintain all the petitioners.

9.5. Respondent is running a photo studio and in this regard petitioners have produced the photographs depicting the name of respondent in respect of photo studio by name Sri Thonteshwar Digital Photo Studio, Aralikatti. Respondent also admitted that he is working in the said photo studio. But his contention is that he is only an employee. But salary certificate or other documents were not produced by him to show that he is just an employee.



9.6. Furthermore, respondent is working as priest and he is also performing marriages and getting income from said profession also. Hence, it is not difficult for respondent to maintain petitioners, but intentionally he is not maintaining them. Hence, prayed for dismissal of revision petition.

10. Having heard the arguments of both sides, verifying the revision petition papers along Trial Court records, the points that arise for consideration are:

1. *Whether Revision petitioner establishes that petitioner No.4 is not his son?*
2. *Whether revision petitioner establishes that petitioner No.1 voluntarily deserted him and thus he is not liable to pay separate maintenance to petitioner No.1?*
3. *Whether revision petitioner establishes that his mother-petitioner No.5 is having sufficient means of income and thus he is not liable to maintain her?*



4. Whether revision petitioner establishes that petitioners No.2 and 3 are having separate source of income and thus he is not liable to maintain them?

11. The admitted facts of the case are that petitioner No.1 and respondent are wife and husband and their marriage was performed on 30.04.2005. It is also admitted that petitioners No.2 and 3 are born from the said wedlock. As on today, Petitioner No.2 has attained majority. But as on the date of filing of the petition, he was minor. The birth certificate of petitioner No.2 as per Ex.P.7 establishes his date of birth as 20.05.2006. Thus, he is entitled for maintenance till he attains the age of majority from the date of petition.

12. Petitioner No.3 is born on 31.08.2008 and he is still minor. It is the responsibility of respondent being father to maintain his minor children. As per Section 125 of Cr.P.C., when a petition is filed for maintenance



on behalf of minor children, upon such proof of neglect or refusal to maintain them, the Magistrate may award monthly allowance for maintenance of his minor children. Admittedly, after filing the petition for maintenance, respondent has not paid even a penny for maintenance of petitioners No.2 and 3. Hence, he cannot escape his liability to maintain his minor children.

13. As far as petitioner No.4 is concerned, it is pleaded in the petition that, when petitioner No.1 was pregnant for petitioner No.3, she was thrown out from matrimonial house and started residing in her parental house and at that time respondent was visiting her house. After she gave birth to petitioner No.3 also respondent was visiting her house and thus she became pregnant and she gave birth to petitioner No.4.



14. In this regard, she denied the suggestion that respondent had no access at the time of conception for petitioner No.4. In this regard, respondent in his evidence has not produced any material to show that petitioner No.4 is not born out of wedlock. Admittedly, marriage of petitioner No.1 with respondent is still subsisting.

15. Section 116 of the Bharatiya Sakshya Adhiniyam, 2023 deals with proof of legitimacy of the child born during continuation of the marriage. It is extracted as follows:

"116. Birth during marriage, conclusive proof of legitimacy:- *The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate child of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten."*



16. Under Section 116 of the Bharatiya Sakshya Adhiniyam, 2023, (old Section 112 of the Evidence Act, 1872), there shall be presumption that any child born during continuance of a valid marriage that child is the legitimate child of said mother and father. It can be rebutted only if the person disputes paternity establishes that the parties to the marriage had no access to each other.
17. In the instant case, as discussed above, petitioner No.1 is residing in her parental house. In his cross-examination, respondent admitted that for sometime he was visiting the parental house of petitioner No.1 after she started residing in her parental house. Thus, he has not produced any material to show that there is no access between him and petitioner No.1 at the time of conception of petitioner No.4 by petitioner No.1.



18. Thus, when the marriage is subsisting between petitioner No.1 and respondent and when the child is born out of that marriage the presumption is that it is the child of respondent. No rebuttal evidence is produced by respondent to say that petitioner No.4 is not his child. Hence, it is presumed that petitioner No.4 is born to respondent and admittedly it is a minor child and thus it is the responsibility of respondent to maintain the said child. Hence, he has to pay maintenance even for the maintenance of petitioner No.4.

19. It is the contention of respondent that petitioner No.1 voluntarily deserted him and thus he is not liable to pay maintenance to her. In this regard, learned counsel for revision petitioner vehemently relied on Section 125(4) of Cr.P.C. It reads as follows:

**"125. Order for maintenance of
wives, children and parents.—**

XXXXX



(4) No wife shall be entitled to receive an 1[allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be,] from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent."

20. According to this provision, the wife is not entitled to receive maintenance from her husband if she is living in adultery or if without any sufficient reason she refuses to live with her husband or if they are living separately by mutual consent.
21. It is not the case of respondent that petitioner No.1 is living in adultery and hence that ground is not available to respondent.
22. Without any sufficient reason if she refuses to live with her husband then respondent is not liable to pay maintenance to his wife. Admittedly, respondent married another woman and residing with her and



hence he cannot force his wife to live along with second wife and thus wife is having sufficient reason to live separately from the respondent.

23. The third one is petitioner No.1 and respondent are living separately by mutual consent. It is stated in the petition that since 2010, petitioner No.1 is not residing with respondent and the present petition is filed in the year 2022. It is stated in the petition that respondent married another woman and hence petitioner No.1 started residing separately with respondent. There is no mention either in the petition or there is no admission in the evidence of petitioner No.1 that with mutual consent she is residing separately from respondent. Even there is no such specific averment in the objection statement or in the evidence of respondent. Hence, that ground is also not available to respondent. Hence, Section 125(4) does not help the respondent to absolve his liability and responsibility to maintain his wife-petitioner No.1.



24. Petitioner No.5 is none other than the mother of respondent and she is aged about 70 years. In this regard, in the cross-examination respondent admitted that his mother-petitioner No.5 is aged about 70-74 years and it is his responsibility to maintain his mother. He also admitted that his mother is suffering from old aged ailments like BP and sugar. He further admitted that he is not maintaining his mother and not looking after her well being. He admitted that his mother is working in a mess for preparing Chapatis and residing in a rented house and she is having medical expenses. He also admitted that whatever petitioner No.5 earns is being spent towards her medical expenses.
25. The above discussion reveals that it is the responsibility of respondent to maintain petitioners No.1, 3 to 5 as on today and it was his responsibility to maintain petitioner No.2 till he attains maturity.



26. As far as quantum of maintenance is concerned, income of both sides to be verified and then the quantum of maintenance is to be awarded. In this regard, there is no evidence to show that petitioners No.1 to 4 are working anywhere. However, petitioner No.5 in her evidence and respondent in his evidence admitted that petitioner No.5 is working in a mess and preparing Chapattis. In this regard, petitioner No.5 has deposed that as on the date of giving her evidence, she was getting ₹10,000/- per month from said work. However, as earlier, respondent categorically admitted that his mother is suffering from old aged ailments and all her earnings are being spent towards her medical expenses. Furthermore, it is an admitted fact that petitioner No.5 was having 20 acres of land and she sold it bit by bit.
27. It is to be noted here that petitioner No.5 inherited the said properties from her parents and thus it was her self-acquired property and she is having every right to



deal with her self-acquired properties at her whims and fancies. Even then she has obtained permission of the court to sell her property during minority of respondent and she was directed to keep ₹4,00,000/- in FD in the name of respondent. But she has not done so. Merely because petitioner No.5 has not done so, she cannot be thrown out to streets. Admittedly, petitioner No.5 inherits said property from her parents. Hence, respondent will not get any right over those properties. Petitioner No.5 needs money for food, clothing, shelter and medicine and she is not earning that much amount to fulfill all her basic needs. Hence, it is the responsibility of respondent to maintain her.

28. With this background, what is the income of respondent is to be looked into. None of the parties have produced salary certificate or any other document to show that what the income of respondent is. Petitioners have produced one photograph as per



Ex.P.14 that respondent is running Sri Thonteshwara Digital Photo Studio at Aralikatti. The visiting card is published in the name of respondent and his phone numbers are also mentioned in that visiting card. Respondent is not disputing that he is working in the photo studio. Hence, it is to be held that respondent is running said photo studio. Respondent is also working as priest in a temple and getting some income. However, what was the income he is getting from said photo studio and income from profession of priest is not forthcoming in this case.

29. Respondent is maintaining his second wife and two children born from second marriage. He has filed his affidavit stating that he is getting only ₹5,000/- - ₹6,000/- per month, but in the cross-examination he admitted that he is having a passbook at KVG Bank. Intentionally he has not produced said passbook and avoided to disclose what his income is. Thus, an adverse inference is to be drawn against respondent.



30. In the absence of any documentary proof to show the actual income of respondent, the Court has to verify the conduct of respondent and the conduct of petitioners to decide this fact. If really respondent is not having any job, he could not have maintained his second wife and two children from second wife. But admittedly he is maintaining his second wife and two children from second wife This shows that respondent is having sufficient income to maintain himself and also sufficient income to maintain the petitioners. However, the maintenance amount awarded by the Trial Court is exorbitant when there is no documentary proof. Hence, this Court holds that petitioners No.1 and 5 are entitled for maintenance of ₹5,000/- each and petitioners No.2 to 4 are entitled for maintenance of ₹2,500/- each from the date of petition till they attain majority.

31. Hence, this Court proceeds to pass the following:



ORDER

Petition filed under Section 19(4) of the Family Courts Act, 1984 is partly allowed.

The maintenance amount awarded in Crl.Misc.No.201/2022 on the file of Principal Judge, Family Court, Belagavi is modified as follows.

Petitioners No.1 and 5 are entitled for maintenance of ₹5,000/- per month each from the date of petition and petitioners No.2 to 4 are entitled for maintenance of ₹2,500/- per month each from the date of petition till they attain majority.

**SD/-
(GEETHA K.B.)
JUDGE**

gab – upto para 5
SH – para 6 to end
CT-GTB
List No.: 1 Sl No.: 13