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HC-KAR
NC: 2026:KHC:51576-DB
MFA No. 1557 of 2023
CNR: KAHC010120972023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

MISCELLANEOUS FIRST APPEAL NO. 1557 OF 2023 (FC)

BETWEEN:

[redacted]

...APPELLANT

(BY SMT.VACHANA.N.V.,ADVOCATE)

AND:

[redacted].

...RESPONDENT

(BY SMT. HARSHITHA.S., ADVOCATE FOR
SRI. VENKATESH R. BHAGAT.,ADVOCATE)

THIS MFA FILED UNDER SECTION 19(1) OF FAMILY COURT ACT, AGAINST THE JUDGMENT AND DECREE DATED 09.2.2023 PASSED IN M.C.NO. 451/2022 ON THE FILE OF THE I ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, MYSURU,

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ALLOWING THE PETITION FILED UNDER SECTION 13(1A) AND 13(2)(II) OF THE HINDU MARRIAGE ACT.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

Alimony Cannot Become a Windfall upon Remarriage. Alimony is intended to secure the financial support and reasonable sustenance of a spouse in appropriate circumstances; it is not a prize, bounty or continuing entitlement divorced from the circumstances in which it was granted. Once a divorced wife voluntarily chooses to remarry, the very foundation for continuing maintenance may undergo a substantial change, particularly where the subsequent marriage provides her with a new source of companionship, support and financial security. The law cannot permit a divorced spouse to treat alimony as an assured monetary benefit surviving irrespective of subsequent changes in her marital and financial circumstances. A matrimonial remedy intended to mitigate economic hardship cannot be converted into a windfall merely because the recipient has remarried. The court must, therefore, examine the effect of the subsequent marriage and the altered

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circumstances before permitting any continuing or enhanced claim for maintenance or permanent alimony.

This appeal is filed by the husband challenging the judgment and decree dated 09.02.2023 passed in M.C.No.451 of 2022 by the I Additional Principal Judge, Family Court, Mysuru (**'Family Court'**), insofar as it relates to awarding permanent alimony of Rs.25,00,000/-.

2. By the impugned judgment, the petition filed by the wife under Sections 13(1)(ia) and 13(2)(ii) of the Hindu Marriage Act, 1955 (**'the Act'**) seeking dissolution of marriage and grant of permanent alimony came to be allowed.

3. For the sake of convenience, the parties herein are referred to as per by their ranking before the Family Court.

4. Briefly stated, the facts are that the marriage between the petitioner and the respondent was solemnized on 03.05.2021 at the Ballroom, Hotel Ritz Carlton,

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Residency Road, Bengaluru, in accordance with the applicable customs.

Case of the Petitioner:

5. It is the case of the petitioner-wife that the parties lived happily for about three months, after which the respondent changed his behaviour, subjected her to mental and physical cruelty, abused and sexually assaulted her, suspected her fidelity and restricted her interaction with friends and relatives. She further alleged that the respondent failed to provide food, cloths and medicine for her and that, on 07.01.2022, he physically assaulted and ousted her from the matrimonial home, following which, she went to her parents' house. She alleged that the respondent thereafter assaulted her and her father and failed to discharge his duties as a husband. The petitioner, referring to the respondent's income and assets, sought permanent alimony of Rs.1,00,00,000/-.

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Defence of the Respondent:

6. The respondent denied the allegations made in the petition and contended that he had taken the petitioner on frequent outings, provided for her needs and gifted her expensive articles. According to him, the petitioner frequently quarrelled with him and his parents and after returning from a marriage of a friend at Davangere, insisted upon a separate residence at Pune. He stated that the petitioner had expressed on 06.01.2022 that she did not wish to live with him. He contended that, despite agreeing to establishing a separate residence in an attempt to save the marriage, the petitioner did not return and that his subsequent attempts to reconcile the differences were unsuccessful. He stated that he made several attempts to contact her and bring her back, including through calls and WhatsApp messages, and that he and his family members also approached her parental home, but there was no positive response. According to the respondent, during the subsequent panchayat, the

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petitioner's parents suggested that the parties should proceed with mutual divorce. The respondent nevertheless contended that he had discharged his duties towards the petitioner and remained willing to resume matrimonial life with her. He, accordingly, sought for dismissal of the petition.

7. The petitioner was examined as P.W.1 and got marked the documents at Exs.P1 to P13. The respondent was examined as R.W.1 and got marked the documents at Exs.R1 to R15.

Order of the Family Court:

8. The Family Court, upon appreciation of the evidence and submissions of the parties, allowed the petition and granted a decree of dissolution of marriage by awarding permanent alimony of Rs.25,00,000/- in favour of the petitioner. The finding insofar as the dissolution of marriage is concerned is not under challenge in the present appeal. The controversy is confined to the

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quantum of permanent alimony awarded by the Family Court.

9. In considering the said issue, the Family Court noted that the petitioner had claimed permanent alimony of Rs.1,00,00,000/- and had relied upon the respondent's income and alleged ownership of several properties. It was observed that there was no evidence to establish that the properties referred to by the petitioner belonged to the respondent or that he had a share therein. The respondent had stated that his annual salary was Rs.25,00,000/- and that his monthly take-home salary was Rs.1,70,000/-. The Family Court also took note of the petitioner's employment and income, including her admission that her annual income was Rs.7,00,000/-. It further noted that the respondent had not filed an affidavit of assets and liabilities or produced his bank statements, income tax returns, pay slips and other documents to establish his actual source of income.

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10. The Family Court took into consideration that the petitioner had lost her marital life and notwithstanding her employment, would have to lead the rest of her life on her own. The Family Court also considered that her income was comparatively lower than that of the respondent. Having regard to these circumstances, the respondent's income and financial capacity and the status of the parties, the Family Court considered it appropriate to award a sum of Rs.25,00,000/- as permanent alimony to the petitioner.

Grounds of Appeal:

11. Aggrieved by the quantum of permanent alimony awarded by the Family Court, the respondent preferred the present appeal. It is contended that the petitioner had not disclosed material particulars relating to her income and financial circumstances. The determination of the quantum of permanent alimony was, therefore, founded on insufficient material and, accordingly, the award of Rs.25,00,000/- is liable to be set aside.

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12. During the pendency of the appeal, learned counsel for the petitioner files a memo dated 06.11.2024, bringing to the notice of this Court that the petitioner had remarried on 21.04.2024. Along with the said memo, a certificate dated 31.08.2024 evidencing registration of the subsequent marriage was also produced.

13. Learned counsel for the respondent submitted that the quantum of permanent alimony awarded by the Trial Court does not consider the respondent's financial obligations towards his dependent parents. It was further submitted that the petitioner's subsequent remarriage is also a relevant circumstance which ought to be considered by this Court.

14. Per contra, learned counsel for the petitioner sought to support the impugned judgment and decree as a well-reasoned order founded on a proper appreciation of the material on record. It was submitted that the Trial Court had duly considered the relevant circumstances

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while determining the quantum of permanent alimony and that the award does not warrant interference by this Court.

15. We have heard Smt.Vachana N.V., learned counsel for the respondent/husband and Smt.Harshitha S., learned counsel for the petitioner/wife and perused the records. Now, the question that arises for our consideration is,

> *Whether the order of the Family Court, insofar as the quantum of permanent alimony is concerned, warrants interference?*

Reasoning and Conclusion:

16. The subsequent remarriage of the petitioner is a circumstance which has a bearing on the determination of permanent alimony. Section 25 of the Act enables the Court to vary, modify or rescind an order for permanent alimony upon a change in circumstances and sub-section (3) of Section 25, specifically contemplates such variation where the party in whose favour the order has been made, has remarried.

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17. The determination of permanent alimony does not rest on any fixed formula. The Court is required to have regard to the income and property of both parties, their respective means, status, earning capacity and future prospects, reasonable requirements and the other circumstances of the case. The subsequent events having a bearing on these circumstances are also required to be taken into consideration while determining the amount payable.

18. In the present case, the Family Court had, while determining the quantum of permanent alimony, taken into consideration the income and financial capacity of the respondent, the comparatively lower income of the petitioner and the circumstances in which she would have to lead her life following the dissolution of the marriage. The petitioner has, however, since remarried on 21.04.2024. This subsequent event materially alters the circumstances which were relevant to the assessment of

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her future financial requirements at the time when the impugned judgment was passed.

19. We may, in this regard, place reliance on ***Sharath Cariappa K.S. v. Smt. Sharin N.S.***[1], wherein a Division Bench of this Court was concerned with a similar circumstance. In the said case, the parties were married in the year 2016 and, pursuant to a petition filed by the wife, the Family Court granted a decree of divorce in the year 2018. The husband preferred an appeal in the year 2019 and, during the pendency of the appeal, the wife remarried on 07.02.2022. While considering the challenge confined to the award of permanent alimony, this Court took note of the subsequent remarriage and having regard to the period during which the wife was entitled to maintenance and the financial and social status of the parties, modified the permanent alimony from Rs.25,00,000/- to Rs.10,00,000/-. The Court observed as follows:

[1] MFA No.2426/2019 (FC) DD 05.09.2024

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"14. At present, this appeal is restricted only in respect of permanent alimony. The fact that both appellant and respondent have re-married on the dates stated by the parties is not in dispute. Looking to the facts and circumstances, financial and social status of appellant and stay of respondent with appellant from the date of her marriage till she left his company and thereafter till she re-married on 07.02.2022, she was entitled for maintenance.

15. xxxxxxxxxxxxxx

16. xxxxxxxxxxxxxx

17. The amount of permanent alimony has to be determined on the basis of financial status of appellant and amount necessary to maintain the same standard of living by the wife to lead respectful life. The learned trial Judge considering the income of the appellant, his personal expenses, etc., and also requirement of the respondent to lead a normal life as per the standard of appellant-husband, assessed permanent alimony of Rs.25,00,000/-. In the grounds of appeal, the appellant has not disclosed as to where the trial court has erred in awarding the said amount of permanent alimony. The only ground of the appellant is that after remarriage of the respondent she is not entitled for any permanent alimony. The said submission is not legally tenable. Matrimonial relationship of both the parties were continued from the date of their marriage till she obtained decree of nullifying the marriage and her right to maintenance continued till she re-married in the year 2022. Considering the facts stated above, we find it just and necessary to modify the amount of permanent alimony awarded by the trial court by the impugned judgment."

20. The principle emerging from the aforesaid decision is that the subsequent remarriage of the

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petitioner does not, by itself, obliterate the circumstances giving rise to her entitlement to permanent alimony. At the same time, such remarriage is a material change in circumstance which is required to be taken into consideration while determining the quantum payable. In the present case also, the petitioner remained unmarried from the date of dissolution of marriage until her remarriage on 21.04.2024. This period, together with the financial circumstances of the parties and the subsequent change in the petitioner's circumstances, is therefore relevant for reassessing the amount awarded by the Family Court.

21. We have also considered the other grounds urged by the respondent against the quantum of permanent alimony. The respondent has contended that material particulars relating to the petitioner's income and financial circumstances were not disclosed. He has also contended that he has financial obligations towards his dependent parents. However, the respondent has not

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placed on record any affidavit of assets and liabilities or material evidence substantiating the financial obligations claimed by him, as per the law laid down in ***Rajnesh –vs- Neha***[2]. These contentions, therefore, do not furnish sufficient ground to interfere with the basis on which the Family Court assessed the permanent alimony.

22. The subsequent remarriage of the petitioner, however, constitutes a relevant change in circumstance. Having regard to the financial position of the parties, the period for which the petitioner remained unmarried following the dissolution of marriage and her subsequent remarriage, we are of the view that the permanent alimony awarded by the Family Court requires to be reassessed. In order to bring quietus to the dispute relating to permanent alimony, we deem it appropriate to reduce the award of Rs.25,00,000/- to Rs.10,00,000/-.

23. We further take note that, pursuant to the order dated 12.03.2025 passed on I.A. No.1/2023 in the

[2] (2021) 2 SCC 324

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present appeal, the appellant has deposited a sum of Rs.10,00,000/- before this Court. The said amount shall be appropriated towards the permanent alimony awarded under this judgment and shall constitute full satisfaction thereof. No further amount shall consequently be payable by the appellant towards permanent alimony pursuant to the judgment and decree under appeal.

Accordingly, the appeal is partly allowed.

The judgment and decree dated 09.02.2023 passed in M.C.No.451 of 2022 by the I Additional Principal Judge, Family Court, Mysuru, is modified to the extent mentioned above.

Pending I.As., if any, stand disposed of.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM/List No.: 1 Sl No.: 9