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RPFC No. 231 of 2025

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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER , 2026

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

REV.PET. FAMILY COURT NO.231 OF 2025

BETWEEN:

[redacted]

...PETITIONER

(BY SMT. T.R.RAJESHWARI, ADVOCATE)

AND:

[redacted]

...RESPONDENT

(BY SMT. K. VANI., ADVOCATE)

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THIS RPFC FILED UNDER SEC.19(4) OF FAMILY COURTS ACT., AGAINST THE ORDER DATED 4.07.2025 PASSED IN CRL. MISC NO.172/2024 ON THE FILE OF PRL. JUDGE, FAMILY COURT, CHIKKAMAGALURU., PARTLY ALLOWING THE PETITION FILED UNDER SEC.144 OF B.N.S.S., FOR MAINTENANCE.

THIS PETITION, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON ***25.09.2026***, COMING ON THIS DAY, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

CAV ORDER

This revision petition is the outcome of the order that is rendered by the Court of Principal Judge, Family Court, Chikkamagaluru, in Crl.Misc.No.172/2024 dated 04.07.2025.

2. As the relationship between the parties is not in dispute, the revision petitioner will hereinafter be referred to as 'husband' and the respondent as 'wife'.

3. Wife filed a petition invoking Section 144 of Bharatiya Nagarik Suraksha Sanhita, 2023, (for short 'BNSS'), seeking the Family Court to direct her husband to pay her a sum of Rs.85,000/- per month towards her

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maintenance. Family Court evaluating the evidence of PW1, RW1, Exs.P1 to P59 and Exs.R1 to R24 came to a conclusion that though wife is an employee and earns Rs.54,700/- per month, as the income of the husband is more than the income of the wife, she is liable to be maintained by her husband. Exhibiting that opinion, Family Court directed husband to pay wife a sum of Rs.20,000/- per month towards her maintenance. Aggrieved by the decision thus taken and the liability imposed, husband filed this revision petition.

4. Heard Smt.T.R. Raja Rajeshwari, learned counsel for the petitioner. Though Smt.K.Vani, is on record representing the respondent, learned counsel has not chosen to submit her contentions.

5. The version of the wife as per the material available on record is that her husband suffers from Beta Thaluassemia, there was Gall Bladder removal and he is acute diabetic, but suppressing his health condition, he

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married her. Her version is also that she was harassed by her husband demanding dowry and that he ill-treated her.

6. On the other hand, husband contended that all the marriage expenses were borne by him, but wife never performed her duties and he had to attend all household work and also the office work. Wife cultivated the habit of watching mobile all the time and thereby she neglected him. She never allowed him to visit his parents and accused him for talking to his cousins. She always exhibited psychotic and aggressive behaviour.

7. So far as the financial status of the parties is concerned, wife contended that her husband works as Engineer and earns Rs.40,00,000/- per annum. Husband on the other hand took a plea that wife is a B.E. Graduate in Computer Science and she works with [redacted] and she earns Rs.10,00,000/- per annum.

8. Arguing the matter, learned counsel for the petitioner/husband submitted that respondent/wife forced

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petitioner/husband to leave his parents and live with her parents at Chikkamagaluru. When petitioner/husband refused to leave his aged parents, she started harassing the petitioner/husband. Respondent/wife never took care of the house and she never attended household chores. Petitioner, apart from attending his duties, was cooking at house and was doing all work. After the couple got separated, respondent/wife started threatening the petitioner/husband of filing false cases against him. Respondent/wife gave complaint at Family Counselling Centre, Chikkamagaluru, threatened the petitioner/husband and his parents and that she will give complaint to police and get the case registered and thereby took an undertaking for mutual consent divorce and also in respect of permanent alimony. Petitioner, who suffers from chronic Type-1 diabetes, takes insulin four times a day. No doubt, petitioner earns Rs.2,00,000/- per month, however, out of the said amount, he spent Rs.70,000/- towards medical expenses of himself and his parents. That apart, since the respondent/wife foisted

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several cases against him, he is spending huge amount on legal expenses. On the other hand, respondent/wife as per her own version earns Rs.54,700/- per month. That amount is more than sufficient for a single person for decent living. But without considering these aspects, only because a petition is filed claiming maintenance by the wife, Family Court directed petitioner/husband to pay respondent/wife huge sum of Rs.20,000/- per month. As respondent/wife does not require any financial support from the petitioner/husband and further as petitioner/ husband is liable to maintain his parents and has to spend huge amount for his treatment, the impugned order is required to be set aside.

9. For the benefit of discussion and appreciation of legal position involved, Section 144(1) of BNSS, 2023 is extracted as under.

> ***Section 144: Order for maintenance of wives, children and parents:***
>
> *(1) If any person having sufficient means neglects or refuses to maintain-*

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(a) his wife, unable to maintain herself; or

(b) his legitimate or illegitimate child, whether married or not, unable to maintain itself; or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself; or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly

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allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation. - For the purposes of this Chapter, "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried."

10. While the version of the wife is that she is liable to be maintained by her husband and thereby she sought for a direction to the husband to pay her a sum of Rs.85,000/- per month towards her maintenance, the plea taken by the husband is that the wife being well educated, placed in a decent job and earning handsome salary, is not expected to claim maintenance from him and thereby he is not liable to maintain her. The financial status of both

parties as projected by themselves in the affidavits given in respect of their assets and liabilities by following the decision of the Hon'ble Apex Court in *Rajnesh Vs. Neha and Another* reported in *(2021) 2 SCC 324* is as under:

HUSBAND:

Educational qualification	[redacted]
General Monthly Expenses	[redacted]
Dependent family members	[redacted]
Name of the Employer	[redacted]
Designation	[redacted]
Monthly income	[redacted]
Income from other sources	[redacted]

WIFE:

Educational qualification	[redacted]
Monthly Expenses	[redacted]
Dependent family members	[redacted]
Approximate monthly expenditure incurred towards the dependents	[redacted]
Particulars of employer	[redacted]
Designation	[redacted]
Monthly income	[redacted]

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DETAILS OF LOANS BORROWED OR ADVANCED:

(a) Marriage loan : Rs.40 lakhs.

(b) Housing loan : Rs.30 lakhs

Details of loan installments - Nil

Amount repaid out of the total marriage loan, Rs.10,00,000/-.

11. With the aforementioned particulars coupled with the evidence produced by both sides, the points that emerge for consideration are:

(1) Whether in the facts and circumstances of the case, wife can be termed to be the dependent of her husband and if so, to what amount she is entitled to towards maintenance?

(2) Whether basing on the evidence produced and in the facts and circumstances of the case, the impugned order is liable to be set aside?

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DISCUSSION ON POINTS No. 1 and 2:

12. Here is the case where husband and wife are well educated, secured good placements and are earning. Even as per the version of the wife, husband suffers with Beta Thaluassemia and that he is acute diabetic.

13. To claim maintenance under Section 144 of BNSS, 2023, one has to establish not only that the opposite party neglected or refused to maintain him/her, but also that the person who claims is unable to maintain himself/herself. Thus, the following two aspects should invariably established by the wife to claim maintenance from her husband.

(i) That the husband neglected or refused to maintain her and

(ii) That she is unable to maintain herself.

14. On establishing these two aspects, the aspect of the economic position of the husband arises and then the Court has to look into whether the husband has sufficient means to maintain his wife.

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15. In the case on hand, wife as per her own version is a B.E. Graduate in Computer Science, works with an Organization by name Lion Bridge as Technical Writer and earns Rs.54,700/- per month. Wife made a clear mention that the approximate monthly expenditure she incurs towards her dependents is Rs.35,000/-. When the wife herself contends that her parents are depending upon her and that she incurs a sum of Rs.35,000/- per month for their maintenance, this Court cannot appreciate her stand that she is depending upon her husband and thereby a direction is required to be issued to her husband to maintain her.

16. No doubt the financial status of the husband is higher than that of his wife. However, his health condition, even as per the version of the wife and the document she produced before the Court, reveals justification in his version that he is required to spend huge amount for his treatment.

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17. Family Court at para 16 of the order made an observation that the respondent (petitioner herein) being the husband of petitioner (respondent herein), it is his bounded duty to provide food, clothing and shelter to the petitioner (respondent herein). At para 20 of the impugned order Family Court observed that the respondent (petitioner herein) is having average income of Rs.2,00,000/- per month, which is more than the income of the petitioner (respondent herein).

18. Inability to maintain herself is a pre-condition to claim maintenance. Law does not state that a married woman under all circumstances should be maintained by her husband. When the wife is well educated, well placed and earns income which is sufficient to maintain herself, she cannot be termed to be dependent on her husband. Gainful employment, financial independence and self sufficiency are good grounds to reject the claim of maintenance of wife.

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19. No doubt as earlier discussed, the income of the husband is more than that of his wife. If the income of the wife is grossly low which is not sufficient to maintain herself, undoubtedly such wife is liable to be maintained by her husband. However, in the case on hand, through the amount she earns, as per her own version, she is maintaining her parents. Therefore, she cannot be considered to be the dependent of her husband. Thus, the impugned order through which liability is imposed upon the husband to pay maintenance to his wife, is required to be set aside.

20. Therefore, following:

ORDER

(i) The revision petition is allowed.

(ii) The order that is rendered by the Court of Principal Judge, Family Court, Chikkamagaluru, in Crl.Misc.No.172/2024 dated 04.07.2025 is set aside.

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(iii) Parties to the litigation are husband and wife. Hence, with an intention to avoid further rupture of relationship and to keep the doors of amicable settlement open, this Court orders husband not to initiate any proceedings for recovery of amount, if any paid till now to the wife towards maintenance.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

AP
CT:TSM