

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

WRIT PETITION NO.18018 OF 2025 (GM-FC)

BETWEEN:

MR. CHETHAN KUMAR
S/O K. NARAYANA,
AGED ABOUT 44 YEARS,
RESIDING AT N.R NIVAS,
PADILK HOUSE, KURNAD POST,
BANTWAL TALUK,
D.K DISTRICT,
PIN - 574 219.

...PETITIONER

(BY SRI. G. RAVISHANKAR SHASTRY.,ADVOCATE)

AND:

MRS. SUSHMA
W/O CHETHAN KUMAR
D/O SHRINIVASA SAPALYA,
AGED ABOUT 35 YEARS,
RESIDING AT DOOR NO. 3-9
KOLAKEERU HOUSE,
KALLDKA POST,
GOLTHAMAJAL VILLAGE,
BANTWAL TALUK
D.K DISTRICT
PIN 574 222

...RESPONDENT

(BY SMT. ASHWINI O.,ADVOCATE)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO WRIT OF CERTIORARI SETTING ASIDE THE ORDER DATED 21-11-2024 IN EXECUTION CASE NO. 21/2024 PASSED BY THE COURT OF PRINCIPAL JUDGE, FAMILY COURT, MANGALURU CERTIFIED COPY OF WHICH IS PRODUCED AT ANNEXURE- A.



THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

Being aggrieved by the order passed by the Court of Principal Judge, Family Court, Dakshina Kannada, Mangaluru, in Ex.No.21/2024 dated 21.11.2024, the respondent therein has filed this petition.

The brief facts of the case are as follows:

2. The petitioner/husband married the respondent No.1/wife on 15.01.2017. After the marriage, the petitioner and respondent lived together as husband and wife. Subsequently, the respondent alleged that the petitioner had subjected her to harassment and assault. On the basis of the said allegations, the respondent - wife filed a petition seeking judgment and decree of divorce under Section 13(1) (i-a) of the Hindu Marriage Act in M.C.No.65/2019 on the file of the Principal Judge, Family Court, D.K., Mangaluru, and the petitioner - husband filed

counter claim of restitution of conjugal rights in the said petition. The respondent – wife filed I.A.No.III seeking interim maintenance and the Family Court vide order dated 19.02.2020 directed the petitioner – husband to pay Rs.15,000/- per month as interim maintenance. The Family Court after considering the evidence of both the parties dismissed the petition for divorce and allowed the counter claim for restitution of conjugal rights and further directed the husband to continue to pay maintenance at Rs.15,000/- per month until the petitioner take backs the respondent to matrimonial life.

3. This Court has granted an interim order dated 26.06.2025 considering the submission of the petitioner that he has made all his efforts asking the respondent – wife to join the matrimonial home as per the judgment and decree. He has also issued notice, but the respondent – wife has failed to join the petitioner – husband and initiated the execution proceedings which came to be ordered by the order impugned. He also submitted that he has paid an amount of Rs.6,00,000/- to the respondent

- wife. The petitioner - husband has not produced any acknowledgment to prove that he has paid an amount of Rs.6,00,000/- to the respondent - wife.

4. Learned counsel for the petitioner submits that he was paying the maintenance to the respondent but as he lost his job and due to financial difficulties, he could not pay the maintenance amount in time. Hence, the wife filed Execution Case No.21/2024 stating that petitioner has failed to comply the judgment and decree in M.C.No.65/2019. He filed objections to the said execution petition stating that respondent has failed to join the matrimonial life and hence, he is not liable to pay maintenance. He further submits that after filing the petition for divorce, the respondent - wife has filed Crl.Misc.No.103/2019 under the provisions of Protection of Women from Domestic Violence Act and Court of Principal Senior Civil Judge & JMFC, Bantwal, D.K., on 22.10.2024 disposed the case directing the husband to pay a sum of Rs.5,000/- per month to the respondent till her lifetime.

For enforcing the same, the respondent has also filed Execution Case No.9/2025.

5. In Execution Case No.21/2024, the petitioner has filed a memo of calculation stating that the petitioner has paid the maintenance amount of Rs.4,50,000/- but the respondent – wife has objected the same and contends that the petitioner has to pay an amount of Rs.3,60,000/-. Petitioner had issued legal notice calling upon the respondent to join matrimonial life but the respondent has given a reply noticed which shows that the respondent is not interested in joining the matrimonial life with the petitioner. The Family Court after hearing the parties on memo of calculation and its objections, without considering the effect of legal notice and reply notice and the claim of the petitioner seeking execution of restitution of conjugal rights as per order dated 21.11.2024 has rejected the memo of calculation filed by the petitioner. Hence, prays for setting aside the impugned order.

6. *Per contra*, learned counsel for the wife submits that in compliance of the order on I.A.No.III dated

19.02.2020, she has received a sum of Rs.4,50,000/- but the husband has to pay the amount from 20.11.2019 till 21.02.2022, but the husband has failed to pay the same. She further contends that husband has not taken any steps for restitution of conjugal rights as prescribed under Order XXI Rule 32 of CPC. Hence, prays to dismiss the petition.

7. Heard learned counsel appearing for both the parties and perused the material on record.

8. On careful consideration of the material on record, the judgment and decree dated 21.02.2022 in M.C.No.65/2019 clearly directs the petitioner to pay maintenance at Rs.15,000/- per month till he takes back the respondent to matrimonial life. The obligation is clear and continues until cohabitation is resumed. The contention of the petitioner that the respondent refused to join matrimonial life cannot, by itself, absolve him of the liability under the decree. If the petitioner was genuinely interested in enforcing restitution of conjugal rights, it was

incumbent upon him to initiate appropriate execution proceedings for enforcement of that decree. Mere issuance of a legal notice does not amount to compliance with or enforcement of a decree for restitution of conjugal rights. The Family Court has rightly observed that no effective steps were taken by the petitioner to execute the decree for restitution. The petitioner's attempt to avoid liability by raising defenses inconsistent with the decree is impermissible in execution proceedings. The plea regarding financial hardship also does not justify non-compliance with a subsisting decree, particularly when no modification of the maintenance order has been sought before a competent forum.

9. Having considered the facts and circumstances of the case, this Court does not find any infirmity in the impugned order passed and grounds for interference. The maintenance awarded through the impugned order is just and proper as an interim measure. Therefore, this Court is of the view that there are no merits in this writ petition. Accordingly, the following:-

ORDER

- (i) The Writ Petition is hereby ***dismissed***.
- (ii) The order dated 21.11.2024 passed in Execution Case No.21/2024 by the Principal Judge, Family Court, Mangaluru is hereby affirmed.
- (iii) Petitioner – husband shall clear all arrears within a period of four weeks.
- No order as to costs.

**SD/-
(DR.K.MANMADHA RAO)
JUDGE**

MH/-