

IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE 22ND DAY OF AUGUST, 2025 BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI REV.PET FAMILY COURT NO. 46 OF 2025

BETWEEN:

MR.ALI SULTAN S/O MUNAWAR KHAN, AGED 43 YEARS, RESIDING AT NO. 127, MOUSQUE ROAD, YARAB NAGAR, BANASHANKARI 2ND STAGE, BANGALORE – 560 070

...PETITIONER

(BY SRI.VIREN MICHAEL PERES, ADVOCATE)

AND:

- 1. SHABANA BEGUM W/O ALI SULTAN, AGED 42 YEARS
- 2. MISS RIDA ANNAM KHAN
 D/O ALI SULTAN (CONTESTED)
 AGED ABOUT 16 YEARS, MINOR
 REPRESENTED BY NATURAL GUARDIAN
 AND MOTHER SHABANA BEGUM
 RESIDING AT 148, 3RD FLOOR
 1ST MAIN, 2ND CROSS, MINHAS NAGAR
 BANGALORE 560 078

...RESPONDENTS

(BY SRI. H.RAMACHANDRA, ADVOCATE FOR R1 R2 IS MINOR- REP. BY R1)

THIS RPFC FILED UNDER SEC.19(4) OF THE FAMILY COURTS ACT., AGAINST THE ORDER DATED 16.09.2023 PASSED IN CRL.MISC NO.580/2019 ON THE FILE OF VI ADDITIONAL PRINCIPAL JUDGE, FAMILY COURT, BENGALURU, PARTLY ALLOWING PETITION FILED UNDER ORDER 125 OF Cr.P.C FOR MAINTENANCE.



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NC: 2025:KHC:32951 RPFC No. 46 of 2025



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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the orders passed on Crl.Misc.No.580/2019 dated 16.09.2023 by the VI Addl. Prl. Judge, Family Court, Bengaluru, the husband is before this court questioning the order of maintenance of an amount Rs.15,000/- each to petitioner Nos.1 and 2 is granted by the family court.

- 2. Both the parties are referred to as husband and wife for the sake of convenience.
- 3. This revision petition is filed with a delay of 431 days. This court has perused the I.A. that is filed under Section 5 of the Limitation Act seeking condonation of the delay. It is stated that he had received summons in Crl.Misc.No.580/2019 on the file of the VI Addl. Family Court, Bangalore under Section 125 of the Cr.P.C and his advocate has filed vakalath on 18.01.2020 and next date was posted to 03.03.2020. His advocate in the trial court had informed him that he would take care of the case and nothing to worry. Thereafter he did not receive any call



from his advocate due to COVID for two years and thereafter he received the notice in Crl.Misc.No.536/2024. Then he approached the old advocate who was silent and told him he does not want to handle the case and hence he has approached the new advocate. Looking at the summons, he came to know about the order that is passed by the court. Then he approached the Advocate and after obtaining the necessary documents he has filed this petition and in the process a delay of 431 is occurred. On the last occasion when this court had pointed out that the reasons are not stated where, when and how he come to know nothing has been mentioned. Now a supplementary affidavit is filed before the court wherein it is stated that they have received the summons for recovery of the maintenance amount on 07.08.2024 and appeared Crl.Misc.No.536/2024 on 08.08.2024 and engaged advocate. Then on 26.09.2024 the matter was posted for mediation and thereafter he did not receive any notice. He received a call on 03.02.2025 that arrest warrant is issued. Thereafter he has obtained the papers and filed this petition.



4.Learned counsel appearing for the husband has submitted on the merits of the matter stating that it is difficult for the petitioner to pay the amount and further it is an exparte order and family court has failed to consider the financial capacity of the husband. Hence the impugned order may be set aside and the matter may be remanded back to the trial Court.

- 5. Learned counsel appearing for the respondent/wife has filed her objections and submits that there are no valid reasons to condone the inordinate delay 431 days. It is submitted that the petitioner/husband only with an intention to avoid payment of maintenance to the wife has deliberately not appeared before the court and coming up with these kind of IAs even the affidavit filed under Section 5 of the Limitation Act and the supplementary affidavit that is filed, do not disclose the correct reasons and basing on those reasons, the delay cannot be condoned.
- 6. Having heard the learned counsels on either side, perused the entire material on record. As rightly argued by the learned counsel for the respondent, the reasons that are stated in support of the IA, do not contain any valid reasons to



condone the inordinate delay of 431 days. When an affidavit is filed under Section 5 of the Limitation Act, particularly in the cases of inordinate delay, then the party has to explain the reason for the said delay and particularly the each day's delay has to be explained by the party. Admittedly in this case, no such explanation is forthcoming. As this is involving the financial implication where the husband has to pay Rs.30,000/- to both the wife and the child and balancing the interest of both the parties, this court deems it appropriate to pass the following:

ORDER

- i. The impugned order passed in Crl.Misc.No.580/ 2019 dated 16.09.2023 by the VI Addl. Prl. Judge, Family Court, Benglauru is set aside and the matter is remanded back to the family court.
- ii. The delay of 431 days is condoned on the condition that the petitioner/husband shall pay an amount of Rs.1,00,000/- to the respondent/wife within a period of 4 weeks from the date of receipt of the copy of the order.



iii. If the petitioner fails to pay Rs.1,00,000/- costs as imposed by this court the original order, i.e. the order impugned will come into force and the wife is at liberty to recover the amount.

iv. The parties without further notice shall appear before the family court on **25.09.2025**. By the time Rs.1,00,000/- is not paid by the petitioner, the court shall not proceed and automatically the order impugned dated 16.09.2023 will be revived and the wife is at liberty to execute.

- v. Learned counsel for the respondent/wife shall furnish the Bank Account details to the Learned counsel for the petitioner by tomorrow.
- vi. Accordingly, the RPFC is **Allowed**.
- vii. All pending I.As., in the RPFC shall stand closed.

SD/-(LALITHA KANNEGANTI) JUDGE

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List No.: 2 SI No.: 7