

(2016) 09 KAR CK 0043
In the Karnataka High Court
Case No : RPFC No. 100049 of 2016

Ambarish Krishna Bhandare

APPELLANT

Vs

Smt. Bhagyalaxmi Ambarish Bhandare

RESPONDENT

Date of Decision : 23-09-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2016) 4 AirKarR 614

Hon'ble Judges : B. Sreenivase Gowda, J.

Bench : Single Bench

Advocate : Shreeshail G. Toukari and S. V. Deshpande, Advocates, for the Appellants

Final Decision : Dismissed

Judgement

B. Sreenivase Gowda, J. - This petition is by husband challenging the order passed by the Family Court, Hubballi, wherein it has awarded maintenance of Rs.5,000/- per month to his wife and Rs.2,000/- per month to his minor child.

2. Heard the learned counsel for the petitioner. Perused the impugned order.

3. Learned counsel for the petitioner submits that prior to sustaining injuries in the road traffic accident occurred on 12.09.2013, the petitioner/husband was working as an engineer in Bengaluru City and was getting salary of Rs.30,000/- to 35,000/- per month. But after sustaining fracture of ankle bone of right leg in the aforesaid accident, his employer terminated him from service and now he is unemployed. Under the above circumstances, he is not in a position to pay maintenance awarded by the Family Court to his wife and child.

4. Petitioner married respondent No. 1 on 11.05.2011 at Royal Function Hall, Keshwapur, Rubli as per Hindu customs and traditions with the blessings of their parents, relatives and well-wishers. After the marriage, respondent No. 1 joined the petitioner and she was residing in her matrimonial house at Bengaluru. After conceiving, she came to her parents' house at Hubli for delivery and she gave

birth to a male child in her parents house. Six months after delivering a child, she along with her child joined her husband. Petitioner/husband who looked after her and her child with affectionate for few days started harassing her with an intention to extract money and gold from her parents. Further, he used to come home late night by consuming alcohol and abuse her in filthy language and caused her mental agony and torture. Finally, he has driven her out of matrimonial home. Respondent No. 1 was forced to return to parents with her child and filed a petition in CrI.Misc. No. 112/2013 under Section 125 of Cr.P.C. before the Family Court, Hubli claiming maintenance of Rs.15,000/- per month to her and Rs. 10,000/- per month to her child.

5. Petitioner/husband after entering appearance in the said CrI.Misc.No.112/2013 filed his objections admitting that respondent No. 1 herein is his legally wedded wife and their marriage was an arranged marriage. He is very much interested to lead happy marital life with his wife as he has married her with love and affection. He is a native of Bellary and on account of employment he is living in Bengaluru and therefore he shifted his family to Bengaluru. He has further admitted that his wife was sent to her parents' house for delivery and she delivered a male child on 10.07.2012. He has contended that his wife after delivering a child, started behaving strangely with him and his mother-in-law refused to send his wife and child along with him. Therefore, he prayed for dismissal of the petition.

6. Respondent No. 1/wife and her child in support of their case have examined respondent No.1/wife as PW.1 and her father as PW.2 and produced marriage card, marriage cover, legal notice, reply and copy of petition filed in M.C.No.2827/2013 by the husband against her and they are marked as Exs.P1 to P6. Whereas petitioner/husband in support of his case has examined himself as RW1 and has produced 11 documents which were marked as Exs.R1 to R11. The Family Court after hearing the learned counsel appearing for the parties and considering the oral and documentary evidence, by impugned order allowed the petition and awarded maintenance of Rs.5,000/- per month to the wife and Rs.2,000/- per month to the child.

7. The only grievance of the petitioner/husband in this petition is that till the petitioner/ husband sustained fracture of ankle bone of right leg in a road traffic accident occurred on 12.09.2013, he was working as an Engineer and getting salary of Rs.30,000/- to Rs.35,000/- per month. After sustaining injury in the accident, his employer has terminated him from his service and now he is unemployed. Therefore, he is not in a position to pay maintenance amount awarded by the Family Court to his wife and child. The proceedings initiated by the petitioner/husband against the wife in M.C.No.2827/2013 for restitution of conjugal rights would itself show that wife is not living with him and he has approached the Court seeking direction to his wife to join him. Whether such-petition is initiated with bona fide intention or not, the fact remains that his wife is not residing with him.

8. According to the petitioner/husband he sustained fracture of ankle bone of his right leg in a road traffic accident that occurred on 12.09.2013. Nature of injury sustained by him in a road traffic accident would not suggest that it has resulted in termination of his service. Admittedly, he had sustained simple fracture of ankle bone which would normally be cured within a maximum period of six months. If that is so, there is no impediment for the petitioner to secure some employment after recovering from his injury that he sustained in the accident.

9. Be that as it may, admittedly petitioner is a B.E. Mechanical Engineering Graduate and that maintenance of Rs.5,000/- per month to the wife and Rs.2,000/- per month to the child awarded by the Family Court cannot be said to be on the higher side. The contention of the husband that wife is working as lecturer in a private college was denied by the wife and the husband has not established the said contention by adducing cogent evidence.

10. For the reasons stated above, the petition is dismissed as devoid of merits.

11. In view of the dismissal of the petition, I.A.No.2/2016 does not survive for consideration and the same stands rejected.