

Udaya Kumar vs Rajani

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Court : Karnataka Orders

Decided On : Jul-02-2025

Judge : Ravi V Hosmani

Appeal No. : RPFC/200078/2024

Appellant : Udaya Kumar

Respondent : Rajani

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA, KALABURAGI BENCH DATED THIS THE 2ND DAY OF JULY, 2025 BEFORE THE HON'BLE MR. JUSTICE RAVI V HOSMANI REV.PET FAMILY COURT NO. 200078 OF 2024 BETWEEN: SRI. UDAYA KUMAR S/O RAYAPPA HONAWADKAR, AGED ABOUT 54 YEARS, OCC: A.E.E. ADMN, OFFICER, KIMS, HUBLI. R/O: NEAR IDGA MAIDAN CHANNAMMA CIRCLE, VIJAYAPURA. PETITIONER (BY SRI SHIVAYOGESH SHIVAYOGIMATH, ADVOCATE FOR SMT. RATNA N.SHIVAYOGIMATH, ADVOCATE) AND: SMT. RAJANI

Digitally signed W/O UDAYA KUMAR HONAWADKAR, by NIJAMUDDIN AGED ABOUT 35 YEARS, JAMKHANDI R/O: NEAR DILDAR HOTEL, Location: HIGH

COURT OF GYANG BOUDI VIJAYAPURA - 586 101. KARNATAKA
RESPONDENT (BY SRI S.S.MAMADAPUR, ADVOCATE) THIS RPFC IS FILED
UNDER SECTION 19(4) OF THE FAMILY

COURTS ACT, PRAYING TO SET ASIDE THE IMPUGNED ORDER

DATED 04.01.2022 PASSED BY THE I ADDL. PRINCIPAL JUDGE, FAMILY
COURT VIJAYAPURA IN CRL.MISC.NO.701/2019 BY ALLOWING THIS RPFC
VIDE ANNEXURE-B. AND ETC. THIS RPFC, COMING ON FOR ORDERS, THIS
DAY, ORDER WAS MADE THEREIN AS UNDER: -2- CORAM: HON'BLE MR.
JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 04.01.2022, passed by I Addl. Prl. Judge, Family Court,
Vijayapura, in Crl.Misc.no.701/2019, this petition is filed by petitioner.

2. Sri Shivayogesh Shivayogimath, learned counsel

appearing for Smt. Ratna Shivayogimath, Advocate, for petitioner-husband
submitted, respondent had filed application under Section 125 of Cr.P.C., seeking
for maintenance of Rs.25,000/- per month from petitioner herein. It was alleged in
application that marriage of petitioner and respondent was solemnised on
25.04.2008 at Vanashree Mangala, Karyalay, Vijayapura. Thereafter they resided
together for several months at Vijayapura. It was alleged mother and sister of
petitioner ill- treated and harassing respondent insisting her to bring gold

etc. On 11.04.2018, she was locked in a room without providing food and drove
her out of house. When she informed her mother, petitioner was asked to take her
back. Thus, wife was residing away from petitioner. -3-

3. However, petitioner opposed application by filing objections denying relationship
of husband and wife,

performance of marriage on 25.04.2008 as stated and entitlement of maintenance.
It was submitted, under impugned order, petition came to be allowed without

proper appreciation directing husband to pay maintenance of Rs.25,000/- per month from date of petition.

4. Aggrieved thereby, present revision petition is filed.

As there was delay of 821 days in filing petition, I.A.no.1/2024 was filed along with medical certificate stating that after disposal of maintenance petition, petitioner was informed by trial Court counsel, but he would not contact counsel on account of ill-health of his mother, who was infected with Corona Virus and under treatment at Tatwadarsha Hospital, Hubballi, from 20.10.2020 till 15.11.2023 and she was bed-ridden due to fracture of left hand and old age ailments. Since petitioner used to take his mother for regular check up during said period, he was unable to meet present counsel and file

revision petition in time. Therefore reasons stated was sufficient cause shown in affidavit and additional affidavit and prayed for allowing application. -4-

5. Application is opposed. In support of objections,

learned counsel for respondent -wife submitted, there was no merit in petition or in application. It was submitted, petitioners contention, that there was no relationship of husband and wife would be untenable, as after passing of impugned order, petitioner had filed application under Section 127 of Cr.P.C. for variation of amount of maintenance without taking any ground

about denying or disputing relationship. It was further submitted, said application ie Crl.Misc.no.164/2022 was filed on 23.02.2022, wherein petitioner also deposed as witness and only after dismissal of said petition, present petition is filed without proper explanation for delay.

6. It was submitted, since said petition was filed and

prosecuted even while petitioners mother was allegedly under treatment at Hubballi, explanation was untrue and not sufficient cause. This would clearly indicate that petitioner was grossly negligent. Under such circumstances, as no sufficient cause was made out, I.A.no.1/2024 was devoid of merit, as also main

petition itself and sought for rejection.

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7. Heard learned counsel, perused impugned order, IA.no.1/2024 along with affidavits, objection and material placed on record.

8. Normally, Courts are liberal in condonation of delay

if sufficient cause is made out. Honble Supreme Court as well as this Court time and again held, it is not quantum of delay caused that would matter, but in case cause was beyond control of petitioner, same would constitute sufficient cause. Present revision is filed belatedly, after 821 days. Impugned

order was passed on 07.10.2023. In additional affidavit filed,

petitioner has clearly admitted that he was informed of said

order by trial Court counsel. Explanation for delay, petitioner is

ill-health and treatment of his mother at Tatwadarsha Hospital, Hubballi. Petitioner is said to be resident of Hubballi, however, during said period, petitioner filed and pursued petition under Section 127 of Cr.P.C. ie, Crl.Misc.no.164/2022 before Family Court, Vijayapura. This would apparently indicate that petitioner was not prevented from moving out of Hubballi for litigation. When it is so, petitioner cannot claim to have been prevented by any cause beyond his control. -6-

9. Even on merits, contention urged by petitioner

against order of maintenance is based on denial of relationship. Though prayer sought in Crl.Misc.no.164/2022 is for setting aside order of maintenance, but petition filed under Section 127 Cr.P.C. is only for revision on quantum of maintenance. There is no denial or dispute of relationship in said pattern. It is settled law that for purpose of application under Section 125 Cr.P.C. factum of marriage need not be proved as in civil Suit. It is also to be noted that there is no material placed on record by petitioner about any steps taken by him for seeking

declaration about relationship between petitioner and respondent. Therefore, I do not find any good or sufficient cause to condone delay. Hence, I.A.no.1/2024 is rejected. Consequently, revision petition is also rejected.

10. In view of disposal of main petition, other applications are dismissed as unnecessary. Sd/- (RAVI V HOSMANI) JUDGE Psg*:List No.: 1 SI No.: 32

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