



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
**DATED THIS THE 31<sup>ST</sup> DAY OF JANUARY, 2024**  
**BEFORE**  
**THE HON'BLE MR JUSTICE K.NATARAJAN**  
**CRIMINAL PETITION NO. 12991 OF 2023 (482)**

**BETWEEN:**

KUMAR  
S/O SIDDALINGAPPA,  
AGED 39 YEARS,  
WORKING AS DRIVER AT BMTC,  
NORTH ZONE DIVISION,  
DEPOT NO.30, BANGALORE-560064.

R/AT AKKAMNAHALLI VILLAGE,  
GUMMAGATTA, PAVAGADA TALUK,  
TUMAKURU DT-561202.

...PETITIONER

(BY SRI. MANJUNATH B R., ADVOCATE)

**AND:**

1. B LAVANYA  
W/O KUMAR,  
AGED ABOUT 25 YEARS,
2. ABHINAV K  
S/O KUMAR  
AGED ABOUT 6 1/2 YEARS,  
SINCE MINOR REPRESENTED BY  
HIS NATURAL GUARDIAN AND  
MOTHER B.LAVANYA  
BOTH ARE R/AT NO.40,  
AKKAMNAHALLI VILLAGE,  
GUMMAGATTA, PAVAGADA TALUK,  
TUMAKURU DT-561202.

...RESPONDENTS

(NOTICE TO RESPONDENTS IS DISPENSED WITH)





THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE ORDER DATED 18.10.2023 PASSED IN CRL.MISC.NO.955/2021 WHICH IS PENDING ADJUDICATION ON THE FILE OF THE SENIOR CIVIL JUDGE AND J.M.F.C AT PAVAGADA.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

Looking into the facts and circumstances of the case, notice to respondents are dispensed with.

2. Heard the learned counsel for the petitioner.

3. Learned counsel for the petitioner submits that though the petition filed by the respondents under Section 125 of Cr.P.C. seeking maintenance from the petitioner herein is still under progress, the respondents filed interlocutory application under Section 125(3) of Cr.P.C. seeking interim maintenance of Rs.25,000/- per month. As such, the Trial Court has passed interim order directing the petitioner herein to pay monthly interim maintenance of Rs.6,000/- to respondent No.1 and Rs.4,000/- to respondent No.2 from the date of interim application till disposal of the petition totaling to an amount of



Rs.10,000/- vide order dated 12.06.2020. He further submits that at the time of evidence, petitioner herein is examined as RW.1 before the Trial Court and remained absent on 04.11.2023 and the Trial Court has issued FLW to the petitioner herein without directing the petitioner herein to file separate application seeking recovery of arrears of money.

4. On perusal of the order sheet, it reveals that in the main petition itself, the Trial Court issued FLW to petitioner herein for recovery of arrears of maintenance which is not correct, instead the respondents herein have to file separate petition for recovery of arrears of monthly maintenance amount from the petitioner. But in the case on hand, the Trial Court has issued FLW in the main petition itself which is not sustainable under law. Therefore, the order under challenge is required to be set aside. It is also noted that the respondents have not filed any application for recovery of arrears of monthly maintenance under Section 125(3) of Cr.P.C.



5. Considering the above facts and observations, I  
proceed to pass the following:

**ORDER**

- i. Criminal petition is ***allowed***.
- ii. order dated 18.10.2023 passed in Crl.Misc.No.955/2021 which is pending adjudication on the file of the Senior Civil Judge and JMFC at Pavagada is ***set aside***.
- iii. FLW issued to the petitioner herein is cancelled subject to the condition that the petitioner shall deposit 25% of the arrears of maintenance amount within one month from the date of receipt of copy of this order and thereafter, he shall deposit another 25% within 2 months from the date of receipt of a copy of this order. Remaining amount shall be recovered from the petitioner in accordance with law and the Trial Court shall release the amount to the respondent.

**Sd/-  
JUDGE**

SSD  
List No.: 1 Sl No.: 19