

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 54 OF 2015

Dhanraj S/o Shankar Giri .. Petitioner

Vs.

Chandrakala W/o Dhanraj Giri and others .. Respondents

Mr. M.V. Ghatge, Advocate for the petitioner
Mr. V.B. Garud, Advocate for the respondent nos.1 to 3

CORAM : N.W. SAMBRE, J.

DATE : 22/06/2016

ORAL ORDER :

Heard.

2. The only ground raised by the petitioner questioning the order dated November 10, 2014 passed by the learned Principal Judge, Family Court, Nanded, awarding maintenance of Rs.5,000/- per month to the respondent no.1 i.e. wife and Rs.3,000/- each per month to respondent nos.2 and 3 – children, is that the proceedings for maintenance were initially initiated before the learned Judicial Magistrate First Class, Nanded under section 125(1) of the Code of Criminal Procedure and without any intimation or notice, the same

were transferred to the Court of Principal Judge, Family Court, Nanded. According to him, the Principal Judge, Family Court, Nanded, without issuance of notice to the present petitioner, has decided the proceeding in *absentia* and has awarded exorbitant maintenance.

3. Learned counsel for the petitioner then would urge that the salary slip of the petitioner, as could be noticed from page no.12 of the present proceeding, depicts that the salary of the petitioner is Rs.24,874/- per month and he is required to pay maintenance of about Rs.16,000/- per month to the respondent – wife and children. Learned counsel would submit that the petitioner has a handicapped sister to look after and there is no agricultural income or income from any other source though he holds agricultural property and two plots.

4. Prima facie, I am of the opinion that there is no substance in the present revision application for the reason that the petitioner engaged a lawyer when the proceedings were initiated at Nanded in the court of learned Judicial Magistrate First Class. If the lawyer,

as is informed by the learned counsel for the respondents remained absent and the matter was transferred in the same Court at Nanded, as such, there was no necessity to issue fresh notice to the petitioner, as is apparent from the law laid down by a Division Bench of this Court in the matter of ***Ramchandra Nathu Ghadage and others Vs. Rajaram Nathu Ghadage since deceased by his Lrs. and others 2007 (5) ALL MR 175.***

5. One more aspect, this Court must take judicial note of, is that the petitioner is not sincere in attending the proceedings. Even when the petitioner suffered an order under the provisions of Protection of Women from Domestic Violence Act, he has not responded in the said proceedings and the proceedings were required to be decided by the learned Magistrate without presence of the present petitioner.

6. Another aspect of which this Court must take note of is that the respondent-wife is a diabetic and already has suffered a cardiac arrest for which she is incurring substantial expenses. She has already produced sufficient evidence in this regard before the

Family Court, which was gone into for the purpose of awarding the maintenance.

7. Respondent-wife is living alongwith two grown up children. In this background, looking to the nature of expenses, as could be incurred by the respondent-wife, the maintenance as awarded by the learned Principal Judge, Family Court, Nanded in my opinion, does not call for interference. The Criminal Revision Application as such fails, and is rejected.

8. Learned counsel for the petitioner Shri Ghatge submits that the interim order passed by this Court granting protection in favour of the petitioner be continued for a period of four (4) weeks. In my opinion, looking to the conduct of the petitioner and the fact that the respondent-wife is in dire need of the amount for maintenance, it will be inappropriate to stay the order. Prayer as such is rejected. Interim relief stands vacated.

[N.W. SAMBRE]
JUDGE

arp/