

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.14/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Faizhan F. Pathan for the applicant
Mr. V. S. Gokhale for respondent No.1.

CORAM : K. K. TATED, J.

DATE : JULY 19, 2017

P.C.:

1. Heard. By this criminal Revision Application u/s.397 of the Cr.P.C. the petitioner challenges the order dated 16.11.2015 passed by the Family Court, Kolhapur in Misc. Criminal Application No.3/2013 directing the petitioner to pay enhanced maintenance charges to the respondent wife and son.

2. The petitioner used to pay sum of Rs.800/- to wife and Rs.600/- to son towards maintenance charges as per order dated 31.10.2000 in Misc. Application No.265/1999 u/s. 125 of the Cr.P.C. Thereafter the respondent filed Misc.Criminal application for enhancement of maintenance charges. The trial court, considering the payslip

placed on record by the petitioner for the month of June 2014 to October 2014 (Exhibit- 40 to 44), directed the petitioner to pay total sum of Rs.5000/- by way of maintenance to wife and Rs.3000/- to son. Said order is challenged by the petitioner by the present criminal Revision Application.

3. The main contention raised by the petitioner is that the trial court has passed the impugned order considering the petitioner's total salary of Rs.39028/-. He submits that though the salary slips for the month of June 2014 (Exhibit- 40 to 44) were on record, the trial court failed to consider other salary slips. He submits that the petitioner's total salary was shown Rs.39,028/- in the salary slip for the month of October 2014 only. Because in that month, he had received other allowance of Rs.5008/- and special advance of Rs.5000/-. He submits that bare reading of salary slip for the month of August, September, November, December 2014 and January 2016 shows that the petitioner's basic salary remains the same i.e. Rs.10700/-. including other allowances, his total earning was Rs.29020/-. He submits that on this ground only, the impugned order passed by the Family Court is required to be set aside.

4. The learned counsel for the petitioner submits that if actual salary of the petitioner on the basis of the salary slip placed on record is considered to be Rs.27200/-, then as per the order passed by the Family Court, he has to pay only Rs.3100/- to the respondent instead of additional amount of Rs.4200/-. He further submits that the petitioner's parents are residing separately. He has to maintain both of them. Therefore, it is very difficult for him to pay sum of Rs.8000/- pm to the the respondent. He submits that the respondent No.2 now attained majority. He is in final year of the engineering. He submits that respondent No.2 can also support respondent No.1, her mother. On the basis of these facts, the learned counsel for the petitioner submits that the impugned order passed by the trial court is liable to be set aside.

5. Counsel for the petitioner submits that as per the order passed by this court, the petitioner has already deposited 75% of the arrears of maintenance charges in the trial court.

6. The learned counsel for the petitioner further submits that the petitioner is working with the Modern Education Society's Kusro Wadia Institute of Technology, Pune. He submits that said

Institute has issued circular dated 07.12.2016 stating that the Institute is going to reduce 10% of the pay scale. Said circular is taken on record and marked "X" for identification.

7. On the other hand, the learned counsel for the respondent vehemently opposed the Writ Petition. He submits that considering the enhancement granted by the trial court, there is no substance in the Writ Petition. He submits that the trial court, by impugned order directed the petitioner to pay sum of Rs.5000/- and Rs.3000/- to the respondents respectively. He submits that it is very difficult for the respondent to maintain herself and education of son in Rs.5000/-. He submits that considering the present inflation, the amount awarded by the trial court itself is on lower side. He submits that in any case the trial court has considered the payslip placed on record by the petitioner himself and therefore, there is no question of interfering with the well reasoned order passed by the trial court.

8. Heard both sides. One thing is clear from the pleadings that the trial court has awarded enhanced maintenance on the basis of the payslip for the month of October 2014 only, where total

earning of the petitioner is shown Rs.39028/-. Whereas the other payslip shows total earning Rs.29020/-. In the month of October 2014 the petitioner received other allowances of Rs.5008/- and special advance of Rs.5000/-. Hence, his total earning in the month of October 2014 was Rs.39028/-.

9. It is to be noted that, as respondent No.2 attained majority on 07.03.2016, there is no question of payment of maintenance charges to respondent No.2. Though respondent No.2 is taking education and all his expenses are being borne by respondent No.1 mother, I am of the opinion that the enhancement granted by the trial court does not require any interference in the Writ Petition.

10. The amount deposited by the petitioner to be adjusted in respect of the payment of maintenance charges of respondent wife accordingly.

11. Hence, the Writ Petition stands rejected.

12. No order as to costs.

JUDGE