

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.635 OF 2016

Nasir Ismile Shaikh : Applicant
versus
Samina Nasir Shaikh and ors. : Respondents.

Ms. Ulka Saranjame for the Applicant.
Mr. N V Vechalekar I/by N V Vechalekar & Co. for the Respondent No.1.

CORAM : R. M. SAVANT, J.
DATE : 17th March 2017

P.C.

1 The revisionary jurisdiction of this Court is invoked against the order dated 26/08/2016 passed by the learned Judge, Family Court No.5, Pune by which order the Petition filed under Section 125 of the Criminal Procedure Code by the Respondent No.1 claiming maintenance for herself and her three children came to be allowed and maintenance to the extent mentioned in the operative part of the impugned order has been granted.

2 The Petitioner and the Respondent No.1 were married on 30/12/2003 as per Muslim rites and rituals. The said marriage took place in Pune. It seems that the relations between the parties were strained and they are staying apart from each other. The Respondent No.1 filed the instant application under Section 125 of the Cr.P.C. claiming maintenance for herself and the three children who are born out of the said wedlock. The said amount

is claimed on the ground that the Petitioner has neglected to maintain herself and the three children. It was the case of the Respondent No.1 that the Petitioner is a painting contractor and his income is in the region of Rs.One Lakh per month. It was also the case of the Respondent No.1 that the Petitioner has purchased the property at Kondwa in which he has 4 flats, in one flat he is staying and other 3 flats have been rented out by him.

3 The Petitioner herein filed his reply to the said application and denied the case of the Respondent No.1. It was the case of the Petitioner that he is not a painting contractor but was working with a builder and his salary is Rs.10,000/- per month. It was further his case that he has never neglected to maintain the Respondent No.1 and the three children, but it is on account of the behaviour of the Respondent No.1 that he had to leave the matrimonial house.

4 Before the Trial Court the parties adduced documentary evidence in support of their respective assertions. The Petitioner produced his salary certificate whereas the Respondent No.1 in support of her case that the Petitioner owns property produced Index II of the said property. The Respondent No.1 also produced leave and license agreement executed by the Petitioner along with one Salim Shaikh who is the joint owner of the property along with the Petitioner. The Trial Court on the basis of the material on

record came to a conclusion that the Petitioner has neglected to maintain the Respondent No.1 and the three children. The Trial Court accordingly recorded a finding to the said effect. In so far as the amount of maintenance to the Respondent No.1 is concerned, the Trial Court having regard to the material on record came to a conclusion that the Petitioner is earning rent as well as earning interest on the security deposit which has been taken by him from the licensees whilst letting out the flats. The Trial Court having regard to the fact that the Respondent No.1 is a house wife and has to look after the three children who are school going deemed it appropriate to grant maintenance in the sum of Rs.3000/- per month to the wife and Rs.2000/- each per month to the children.

5 In my view, having regard to the material on record and also considering the cost of living in the present times, the grant of maintenance by the Trial Court to the extent mentioned in the operative part of the impugned order cannot be said to be excessive or exorbitant. No case for interference in the revisionary jurisdiction of this Court is made out. The above Revision Application is accordingly dismissed.

[R.M.SAVANT, J]