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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT NAGPUR**

CRIMINAL REVISION APPLICATION NO.112 OF 2016

Shri. Sarang s/o Vijay Kale,
Aged about 37 years, Occ: Service,
C/o Sagar Developers Society,
Plot NO.15, Manewada Road, Besa,
Nagpur.

..APPLICANT

VERSUS

1. Mrs. Sheetal w/o Sarang Kale,
Aged about 33 years,
Occ: Household,
2. Chi. Vyom Sarang Kale,
Aged about 5 years (since
minor represented thorough
natural guardian mother
Mrs Shetal w/o Sarang Kale)

Both R/o Plot No.579/A
C/o. Sulbha Pandit, Dhantoli,
Nagpur.

..RESPONDENTS

Mr S.A. Brahme, Advocate for applicant;
Mr N.P. Bhishikar, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 15th MARCH, 2017

ORAL ORDER :

Learned Family Court, Nagpur, on 25th May,
2016, in exercise of powers under Section 125 of
the Code of Criminal Procedure, awarded maintenance
of Rs.10,000/- per month to respondent wife and

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Rs.5000/- to son, which order is questioned in the present revision.

2. Heard Mr. Brahme, learned Counsel for the applicant-husband. According to him, there is no neglect on the part of applicant so as to invoke provisions under Section 125 of the Code of Criminal Procedure. In addition, he would invite attention of this Court to the settlement deed at Exhibit-20 and urge that present respondent-wife has not honoured the same, as voluntarily left the company of the applicant without any cause. He would then submit that maintenance awarded i.e. Rs. 10,000/- per month to wife and Rs.5000/- per month to son, is exorbitant and disproportionate to the known source of income. As such, the order of the Family Court is not sustainable.

3. Per contra, learned Counsel for the respondents supports the order of learned Family Court. According to him, the order is based on the material as was brought before the Court, particularly as is reflected from the conduct of

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the applicant-husband qua notice at Exhibit-56 issued on 20th June, 2013 seeking custody of the child Vyom. He would then submit that atmosphere as is maintained by the applicant is not congenial so as to live together and has made serious allegations against the respondent-wife. He would then urge that award of maintenance is based on salary slip of the applicant i.e. Salary certificate Exhibit-18 and as such, this Court should slow in interfering the order of maintenance.

4. The marriage between the parties and birth of son is not in dispute. What is in dispute is, whether there is neglect to maintain. Admittedly, in the present matter, settlement deed was executed so as to stay together in between present applicant and respondent at Exhibit-20 on 22nd October, 2013. However, said settlement deed which was executed was not taken at its logical end. Parties are blaming each other for the failure of the same. It is also required to be noted that present applicant-husband has issued notice at Exhibit-56

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to respondent-wife on 20th June, 2013 seeking custody of child Vyom. However, he has not uttered any single word qua whether the respondent-wife should also join his company. Admittedly, no proceedings are pending between the parties qua restitution of conjugal rights. In the aforesaid background, in my opinion, the view expressed by Family Court for invoking provisions of Section 125 of the Code of Criminal Procedure, is just and proper.

5. This Court takes me to the next submission as regards exorbitant award of maintenance. The salary slip at Exhibit-80 speaks of his total emolument was Rs. 41,270/-, out of which, Rs. 16,264/- is deducted towards salary deduction, which includes loan taken by the applicant for house construction, where he is residing. After said deduction, the applicant takes home salary of Rs.25,000/- and after considering the amount, that will be spent by the applicant for himself, in my opinion, award of maintenance of Rs.10,000/- per month to respondent-wife and Rs.5000/- per month to

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respondent-son is not exorbitant. The applicant is a public servant serving in Sub Treasury Office. In the backdrop of service conditions, which entitlement of the applicant to other benefits, such as medical reimbursement etc. award of maintenance in favour of the respondents to the tune of Rs.10,000/- per month to respondent-wife and Rs.5000/- per month to respondent-wife does not appear disproportionate or shockingly exorbitant.

6. In view of above, no case for interference is made out. As such, criminal revision application fails and same stands rejected.

(N.W. SAMBRE, J.)

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