

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 328 OF 2015
WITH
CRIMINAL APPLICATION (APPR) NO. 294 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 328 OF 2015

Mrs. Raeesa Begum Khalil Shaikh & Ors.

.. Applicants

-Versus-

Khalil Ishaque Shaikh & Anr.

.. Respondents

...

Mr. A. A. Maniyar for the Applicants.

CORAM : G.S.KULKARNI, J.
DATE : 10th January 2018.

PC.

1. Heard the learned counsel for the Applicants. The challenge in this application is to the order dated 21.05.2015 passed by the learned Judge Family Court, Thane, whereby, the application of the Applicant under Section 125 of the Code of Criminal Procedure for maintenance has been partly allowed in the following terms:

“ORDER

1. *The petition is partly allowed with proportionate costs.*
2. *The Respondent is directed to pay Rs.2,500/- each per month for the petitioner Nos. 5, 6, 7 & 8 i.e. in all Rs.10,000/- (Rs.Ten Thousand only) per month with effect from the date of this order.*
3. *The respondent shall pay maintenance to the petitioner Nos. 6 & 8 as directed above, till they attain majority.*

4. *The respondent shall pay maintenance to the petitioner No. 7 as directed above, till her marriage.”*

2. The learned counsel for the Applicants submits that the Applicant No. 4 is a child who is handicapped and therefore, a person having special needs including medical expenditure, and the amount which has been granted by the impugned order is not sufficient to satisfy the need and requirement of the Applicant No. 4.

3. The next contention as urged on behalf of the Applicant is that in para 15 of the impugned order the learned Judge of the Family Court has considered the monthly average income of the Respondent-husband of Rs.30,000/-. It is pointed out that this is not the correct position and the actual monthly income of the Respondent-husband according to the Applicant is about Rs.46,000/- per month. In regard to this a certificate of the Employer - Unity Infrastructure Company, date 23.05.2014 has been relied to shows that the Respondent-husband was in the service of the organization from 01.09.2005 to 20.12.2010.

4. The contention as urged on behalf of the Applicant to assail the order on the above ground cannot be accepted in this application for the reason that there was no material at the relevant time on the record of the Family Court to consider such plea as raised on behalf of the Applicants. In the circumstances, it would be appropriate for the

Applicants if they have any additional plea and such appropriate material available with them, to seek modification of the order dated 21.05.2015 passed by the Family Court, if circumstances so desire. Section 127 of the Code of Criminal Procedure enables a party to make such an application, in case of any changed circumstances.

5. Accordingly, keeping open all contentions of the Petitioner as urged in this application as also of the Respondent the application is disposed of with liberty to the Applicant to move necessary application under Section 127 of the Code of Criminal Procedure.

(G.S.KULKARNI, J)