

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 465 OF 2016
WITH
CRIMINAL APPLICATION (APPR) NO. 128 OF 2017
IN
CRIMINAL REVISION APPLICATION NO. 465 OF 2016

Mr. Pravin Shivaji Kakade

.. Applicant

-Versus-

Mrs. Swati Pravin Kakade & Ors.

.. Respondents

...

Mr. M. N. Vanshir i/b. M. N. Vanshir & Associates for the Applicant.

Mr. Rustom Pardiwalla i/b. Manoj B. Nair for the Respondent Nos. 1 and 2.

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

P.C.

1. Heard the learned counsel for the Applicant and the learned counsel for the Respondents. The challenge in this petition is to the impugned order dated 12.05.2016 passed by the learned Principal Judge Family Court at Pune, whereby, the application under Section 125 of the Code of Criminal Procedure as filed by the Respondent-wife is granted in the following terms:

“ORDER

1. *Petition is partly allowed with costs.*
2. *The respondent is directed to pay maintenance of Rs.10,000/-*

per month to petitioner No.1 for herself and Rs.5000/- per month towards the maintenance of petitioner no.2 i.e. minor son -Viraj from the date of filing of the petition.

3. *Respondent is further directed to pay Rs.5,000/- towards the cost of legal expenses of the petition to petitioner no.1.”*

2. The contention as urged on behalf of the Applicant in assailing the impugned order is that the reasons as set out in the impugned order and more particularly in paragraph 21 to the extent it accepts the Petitioner to have financial inability are not correct in as much as the position is not borne out from the documents as placed on record before the trial court. The contention cannot be accepted. The Respondent-wife in her application under Section 125 had made specific averment in para 11 of the application that the Applicant possessed three buildings as also 16 flats in the said building are rented out. It is further stated that there are shops, offices which are rented out. As also the Applicant possesses four acres of lands. It is further set out that the Applicant owns a wine shop, a PUC shop and a Crusher of his ownership. It is specifically contended that none of the members of the family are dependent on the Applicant and that the income of the Applicant is about 3 lakh per month. On a perusal of the written statement filed on behalf of the Applicant it is clear that these contentions as urged on behalf of the Respondent-wife have been vaguely denied. There is no specific denial of the categorical averments which are made in respect of the various business and the

shops etc. In the circumstances a perusal of the impugned order and more particularly on paragraphs 20 and 21 in my opinion do not indicate of any perversity in the observations as made by the Court. In any event, the amount of maintenance which has been granted is above Rs. 10,000/- per month to the Respondent-wife for herself and Rs.5000/- per month towards minor son Viraj, are just bare enough for the livelihood of the wife and the minor son.

3. Considering the over all circumstances, I do not find any merit in the petition. The petition is accordingly, dismissed. No costs.

4. The Criminal Application No. 128/2017 is also not survive and it is accordingly dismissed.

(G.S.KULKARNI, J)