

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL REVISION NO.191/2017

Sau. Rekha w/o Bhagwan Bhanarkar & anr. .vs. Umesh s/o Bhagwan Bhanarkar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Ms M. S. Hiwase, Advocate Appointed for applicants.
Mr. N. A. Pantawane, Advocate with Mr. Daruwala,
Advocate for non applicant.

CORAM : V.M. DESHPANDE, J.

DATED : FEBRUARY 2, 2018

1. Heard Ms M. S. Hiwase, Advocate who is appointed from Legal Aid Committee and Mr. Pantawane, Advocate with Mr. Daruwala, Advocate for non applicant.

2. The applicants are dissatisfied with the verdict of the learned Judge of the Family Court No.4, Nagpur dated 24.11.2016 in Petition E-533/2012 and therefore they are before this Court.

3. The applicants are the parents of the non applicant. After hearing the learned counsel for the parties and also after having gone through the impugned judgment, it is clear that the non applicant is younger son of the applicants. The applicants and non applicant are residing in the same building. The applicants reside on the ground floor along with their elder son Rajesh. Whereas the non applicant, younger son of the applicants, reside on the upper

floor along with his wife and daughter. The applicants filed a petition for maintenance against the non applicant no.2. It is claimed that the non applicant is working on petrol pump and earns Rs.25,000/- and therefore the applicants claim maintenance at the rate of Rs.5,000/- per month to each of them. The application was contested. The parties went to trial. The applicants adduced their evidence so also the non applicant adduced his evidence. Along with him he examined one Savita Raipurkar.

4. Perusal of the impugned judgment shows that the applicants reside with their elder son Rajesh who is doing private job and whose marriage is dissolved. It is also found by the learned trial Court that there is a serious dispute between applicant no.1 and wife of the non applicant. Probably due to the dispute between mother in law and the daughter in law, they are separate in their residences. It is also clear that not only they are separate in residence but they are separate in their kitchen also. It appears from the evidence of the applicant no.1 that she is having two daughters. Out of two daughters, one is visiting the applicants whereas the other is visiting the non applicant. Thus, it appears that it is the family feud. Though it is stated that the non applicant is working as a Manager at Petrol Pump at Gandhibag, no attempts were made by the applicants to prove the said fact. It was always open for the applicants to file necessary application for securing the attendance of the owner of the said petrol pump in order to

throw light as to whether the non applicant is working in the said petrol pump, especially when the said aspect was denied by the non applicant. The learned trial Court has wrongly shifted burden on the shoulder of the non applicant that he has suppressed his employment. It is to be seen in his evidence he has stated that he is working as a labour and earns Rs.5,000/- by way of his wages.

5. Be that as it may. The non applicant has admitted that his employment gives him Rs.5,000/-. The learned Judge of the Court below has, by guesswork, reached to the conclusion that the monthly income of the non applicant is Rs.9,000/- to Rs.10,000/-. The learned Court below, considering the income of Rs.9,000/- to Rs.10,000/-, has granted maintenance at the rate of Rs.1,000/- to the applicant no.1. The claim of the non applicant is rejected since it is established that prior to his retirement, he used to work with Sanchayani Private Limited and thereafter he is having his employment with one laundry and is earning amount for his maintenance.

6. The non applicant has not challenged the order granting maintenance to the applicant no.1. It is the statement of the non applicant through his counsel Mr.Pantawane along with Mr. Daruwala that the amount of maintenance is being regularly paid to the applicant no.1

7. It is to be noted that it is an admitted fact that the non applicant is having his wife and daughter. He has to look after them also. Further, the applicants are having another son by name Rajesh. He is also working and his marriage is also dissolved. There is nothing on record to show that he has remarried. Therefore, it is clear that nobody is dependent on Rajesh. However, the wife and daughter are depending on the present non applicant.

8. In that view of the matter, in my view, the learned Judge of the Court below has correctly found that it is only the applicant no.1 who is entitled for maintenance and in my view the quantum is also just and reasonable.

9. Consequently, there is no merit in the present case. The revision is therefore dismissed.

Professional charges of Ms. Hiwase, Advocate appointed by the High Court Legal Services Sub Committee are quantified at Rs.5,000/- which shall be inclusive of all expenses incurred by her for preparing the case.

JUDGE