

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

CRIMINAL REVISION APPLICATION NO.38 OF 2019

[Shahnawaz Akhtar s/o Shamim Akhtar .vs. Safiya w/o Shahnawas Akhtar and others]

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

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Court's or Judge's orders

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Mrs. S.K. Paunikar, Advocate for the applicant,
Shri A.H. Jamal, Advocate for the respondents.

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CORAM : MRS. SWAPNA JOSHI, J.

DATED : SEPTEMBER 17, 2019.

By this revision, the applicant has challenged the order dated 12.07.2018 passed by the learned Family Court No.4, Nagpur in Petition No. E-229/2017, whereby it was directed to the applicant herein to pay the amount of Rs.3000/- per month each to respondent nos.1 and 2 and Rs.2000/- per month to respondent no.3 i.e. total amount of Rs.8000/- per month towards their interim maintenance from the date of filing of the application till the disposal of main petition.

Heard Mrs. S.K. Paunikar, the learned advocate for the applicant and Shri A.H. Jamal, the learned advocate for the respondents.

It is the case of the applicant that the order passed by the learned Judge of the Family Court is erroneous in as much as it is not considered that there is no documentary evidence on record to show that the applicant is earning the amount of Rs.40,000/- to Rs.50,000/- per month. It is submitted that the applicant is not in a financial condition to provide that much amount of maintenance to the respondents. It is further submitted that the respondent no.1 is running a boutique shop and she is earning amount of Rs.50,000/- to Rs.60,000/- per month and as such she is

able to maintain herself and therefore not entitled for maintenance.

The learned advocate for the respondents contended that the respondent no.1 is a household lady and she has no source of income to maintain herself and the respondent nos.2 and 3 and they are totally dependent upon the mercy of others. It is pointed out that the respondent nos.2 and 3 are school going children and require money as such. It is submitted that the applicant is serving in Autobat Accumulator Private Limited at Pune as a Salesman and earning salary more than Rs.40,000/- to Rs.50,000/- per month. He owns a house, moveable and immoveable properties in prime location. Except the respondents' nobody is dependent on him. It is submitted that the order passed by the learned Judge of the Family Court is just and reasonable.

After hearing both the sides and on a perusal of the case papers and the order passed by the learned Judge of the Family Court, it is noticed that the learned Judge of the Family Court has properly assessed the situation that the applicant is doing a private job and also engaged in the business of batteries. The learned Judge has come to the conclusion that the applicant is earning an amount of Rs.30,000/- to Rs.35,000/- per month.

No illegality or perversity is noticed in the order passed by the learned Judge of the Family Court. Considering the need of the respondents and the school expenses of the respondent nos.2 and 3 and considering the income of the applicant herein, the amount of Rs.3000/- per month each for respondent no.1-wife and respondent no.2-daughter, who is studying in 6th standard and Rs.2000/- per month for respondent no.3, who is studying in 2nd standard, would be sufficient towards their interim maintenance from the date of filing of the application i.e. 22.05.2017 till the

disposal of main petition.

In view of the facts and circumstances, the Criminal Revision Application is dismissed.

JUDGE

Gulande