

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

CRIMINAL REVISION APPLICATION NO.162 OF 2018

[Vinayak Bapurao Wankhade .vs. Sau. Sonali Vinayak Wankhade and others]

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

Court's or Judge's orders

.....
Ms Kirti Deshpande, Advocate h/f Shri R.R. Vyas, Advocate for the applicant,
Shri R.D. Wakode, Advocate for the non-applicants.

.....

CORAM : MRS. SWAPNA JOSHI, J.

DATED : AUGUST 28, 2019.

By this revision application, the applicant-husband has challenged the judgment and order dated 21.07.2018 passed by the learned Judge of the Family Court, Amravati in Petition No. E-36/2014, thereby the learned Judge of the Family Court has granted the maintenance to non-applicant no.1-wife and nos.2 and 3 children, who are aged about 10 and 6 years old respectively, from the date of application i.e. 21.03.2014. Perused the reply filed on behalf of respondent nos.1 to 3.

The main contention of the learned advocate for the applicant is that the learned Judge of the Family Court has not considered the income of the applicant-husband in its proper perspective and has erroneously come to the conclusion that the wife and children are entitled for interim maintenance at Rs.5,000/- per month.

Earlier the applicant has challenged the judgment passed by the learned Judge of the Family Court, Amravati dated 29.07.2017

granting the maintenance amount of Rs.3,000/- per month to applicant no.1, from the date of application i.e. 21.03.2014. Similarly, the Family Court further directed to pay the amount of Rs.1,000/- each per month towards the maintenance to the children from the date of application i.e. 21.03.2014 till they attain majority. The said order passed by the Family Court, Amravati dated 29.07.2017 was challenged by the applicant herein in this court by filing Criminal Revision Application No.145/2017. In that matter, this Court had remanded the matter back to the Family Court vide judgment and order dated 27.06.2018 for deciding the issue about the date of effect of the order of granting maintenance. Thereafter, the Family Court, on hearing both the sides, passed the order dated 21.07.2018, which is impugned herein, holding that the earlier order passed by the Family Court shall remain as it is. Furthermore, the learned Judge of the Family Court has mentioned the reasons as to why the maintenance needs to be given from the date of application.

The learned counsel for the respondents supported the order passed by the learned Judge of the Family Court, Amravati and submitted that the Judge of the Family Court has given there reasons as to why the maintenance was given from the date of the application.

After hearing both the sides and on a perusal of the case papers, it is observed that the learned Judge of the Family Court has applied the ratio in the case of ***Jaiminiben Hirenghai Vyas and another .vs. Hirenghai Rameshchandra Vyas and another***, reported in ***2015 ALL MR (Cri) 376 (S.C.)***. In the said judgment, it is held in that case that the applicant-appellant was working prior

to her marriage and she was not working after the marriage, therefore, the Hon'ble Apex Court held that the respondent shall pay the amount of maintenance found payable from the date of the application for maintenance.

In the instant case also, the Judge of the Family Court, Amravati, looking into the matter, gave a finding that since the applicant had not source of income, since beginning, she is entitled for the maintenance from the date of application itself. No illegality or perversity noticed in the judgment passed by the Judge of the Family Court, Amravati. In view thereof, the criminal revision application needs to be dismissed and accordingly it is dismissed.

JUDGE