

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

CRIMINAL REVISION No.176 OF 2016

Mr. Indrajeetsingh s/o. Surendrasingh Yadav
VS.
Mrs. Ankita w/o Indrajeetsingh Yadav

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

Court's or Judge's

Shri. P. R. Wagh, Advocate for the applicant.
Shri. S. G. Malode, Advocate for non-applicant.

CORAM : Nitin W. Sambre

DATED : 11.09.2019

This revision is by the original non-applicant in a proceeding initiated under Section 125 of the Code of Criminal Procedure for a grant of maintenance.

2. The parties to the proceeding were married on November 18, 2013 at Ujjain and both are highly educated (Engineers).

3. It is claimed that at present non-applicant wife is residing at Nagpur with her mother, whereas the applicant had gone to Delaware University in United States of America to study M.S.

4. Since there was a matrimonial discord proceedings were taken up before the Family Court, vide impugned Judgment dated August 30, 2016 awarded maintenance of Rs.17,000/- per month w.e.f. February 25, 2015 as such this petition.

5. This Court on 7th July 2017, noticed that a case for consideration is made out and on condition of deposit of Rs.10,000/- per month granted interim relief. The applicant has deposited arrears of Rs.2,90,000/- within a period of four weeks.

6. It appears that the applicant after depositing an amount of Rs.2,90,000/-, has continued to deposit amount of maintenance @ Rs.10,000/-per month as ordered.

7. The order of the Family Court is questioned by the applicant husband on the ground that the order is illegal and contrary to the evidence brought on record. Amongst other, grounds raised are the marriage never consummated and it is the non-applicant wife who neglected the applicant.

8. Though the matter was adjourned at the behest of applicant, none appeared. However, with the assistance of learned counsel

for the non-applicant, this Court proceeded to go through the evidence available on the record of the respective parties. It has come on the record in the evidence of the non-applicant that the applicant was admitted to M.S. course in United States of America in the year 2015 for a duration of two years. It has also brought on record that the applicant was getting stipend of US \$2400 per month.

9. As such by this time, the applicant must have already completed his M.S. study.

10. Apart from above, the fact remains that the present applicant in his evidence and pleadings in categorical terms has admitted the marriage and the receipt of the stipend of US \$2400 per month while studying.

11. If the aforesaid amount is converted in the Indian Rupees, it can be easily noticed that the applicant at the relevant time was earning around Rs.1,75,000/- per month, out of which the Family court has awarded maintenance of only Rs.17,000/- per month in favour of the non-applicant wife. The Family court has appreciated the evidence of non-applicant, her mother and the present applicant. The Family Court based on the same and awarded maintenance of Rs.17,000/- per month.

12. In the wake of evidence available on record, admissions given by the applicant and the fact that he has already completed by this time his M.S., in my opinion the award of maintenance of Rs.17,000/- per month appears to be just and proper.

13. The applicant himself has admitted that the non-applicant wife is residing with her mother in Nagpur and there is no claim that the non-applicant being gainfully employed anywhere. The applicant appears to be out of country and has presented the present criminal revision application through a power of attorney holder, which substantiate the claim of the non-applicant that applicant is in foreign country and earning handsome salary.

14. It will be in the circumstances of the case to direct the applicant to deposit the entire amount of arrears of maintenance within a period of two months from today in the Family Court.

15. No interference is warranted in revisional jurisdiction. The revision fails. Dismissed. No order as to costs.

JUDGE