

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

CRIMINAL REVISION APPLICATION NO.211/2018

Jainab Bi Yunus Laluwale and another

..Vs..

Yunus Rannu Laluwale and others

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

Court's or Judge's orders

Shri Mir Nagman Ali, Advocate for the applicants.
Shri U.J. Deshpande, Advocate for the non-applicant.

CORAM : NITIN W. SAMBRE, J.

DATED : 27.9.2019

1] Heard.

2] Admittedly, the salary of the non-applicant is Rs.24,000/- per month being an Assistant Teacher in a Municipal Corporation School. The applicant / wife is awarded Rs.3,000/- and for son Rs.2,000/- of maintenance under Section 125 of the Code of Criminal Procedure. The prayer for enhancement is turned down with liberty to move under Section 127 of the Code of Criminal Procedure.

3] In proceedings under Domestic Violence Act, apart from granting maintenance of Rs.1,000/- each to the wife and son, an amount of Rs.2,000/- is awarded towards rent.

4] In the aforesaid background, the claim for enhancement in the present proceedings is opposed by

the learned Counsel for the non-applicant. In addition to above, the submissions are, the non-applicant has married for the second time after divorce as such he has large family to maintain.

5] In view of the aforesaid submissions of the learned Counsel for the non-applicant, what can be noticed is, the learned Courts below failed to appreciate the total income of the non-applicant / husband and proportionate award of maintenance. It is a case of failure to exercise jurisdiction as such a case for showing indulgence is made out in revisional jurisdiction.

The non-applicant / husband has failed to produce any evidence substantiating the claim of second marriage.

6] Considering the fact that applicant No.2 - son is in custody of applicant No.1 / wife and the admitted income from the salary of the non-applicant is Rs.24,000/- per month, in my opinion, it will be appropriate to enhance the maintenance in favour of both the applicants from Rs.1,000/- to Rs.2,000/- each.

7] This amount of enhanced compensation under the proceedings of Domestic Violence Act be paid from the date of dismissal of appeal before the Sessions Court. The application is **allowed** accordingly. No costs.

JUDGE