

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

CRIMINAL REVISION APPLICATION NO.235 OF 2018

(Nilesh s/o Tulshiram Polewar and others Vs. Sau. Neha @ Shravanti w/o Nilesh Polewar and another)

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

Court's or Judge's orders.

 Shri S.K. Sable, Advocate for Applicant. [Appointed].
 Shri H.N. Potbhare, Advocate for Non-Applicant Nos.1 & 2.

CORAM: M.G. GIRATKAR, J.

DATE: 7th FEBRUARY, 2019.

Heard Shri Sable, Advocate for the applicant.
 The present revision is against the order of Sessions Judge in Criminal Appeal No.68/2018 by which the appeal came to be dismissed with costs of Rs.10,000/-.

The respondent – wife filed petition for maintenance before the Court of Judicial Magistrate First Class, Chandrapur. Application Exh.5 was moved for grant of interim maintenance. It was prayed in the petition to grant interim maintenance of Rs.10,000/- but learned Magistrate granted interim maintenance of Rs.4000/- plus Rs.2000/- per month to the wife and daughter. The said order was challenged before the Sessions Court. The Sessions Court has observed that the order granting interim maintenance is perfectly legal and correct. The appeal was found without any merit and therefore, costs of Rs.10,000/- is imposed. Hence, the present revision.

Shri Sable, Advocate for the applicant has submitted that applicant is jobless, he is unable to pay interim maintenance.

Shri Potbhare, learned Advocate has submitted that applicant is running business in the name and style as Nilesh Timber and Furniture, Sarkarnagar, Mul Road, Chandrapur. He is having handsome income and therefore, grant of interim maintenance by the trial Court is perfectly legal and correct.

The provision for interim maintenance is made only to survive the destitute wife and helpless children till the decision of main application. The Judicial Magistrate First Class, Chandrapur after hearing both the party granted interim maintenance of Rs.4000/- to wife and Rs.2000/- to daughter. Looking to the present price index the amount cannot be said to be exorbitant. The document filed by learned Advocate Shri Potbhare for the respondent show that applicant is doing business. At this stage, there is no evidence to show that applicant is unable to maintain his wife and daughter. It is legal as well as moral duty of husband to maintain his wife and children. The applicant is at liberty to establish his defence before the Judicial Magistrate First Class, Chandrapur in the main petition. At this stage it cannot be said that the orders passed by Judicial Magistrate First Class, Chandrapur and confirmed by the Sessions Court, Chandrapur are perverse or illegal. Revisional jurisdiction is very limited. This Court has to see perversity or illegality while deciding revision. No perversity

or illegality is found granting interim maintenance by the Judicial Magistrate First Class. As per the provisions of law he has granted interim maintenance to the wife and daughter. Husband is having source of income to maintain his wife and daughter. Hence, there is no merit in the revision. The revision is accordingly dismissed.

JUDGE

NSN