

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 467 OF 2021

Gautam S/o Dagaduji Jadhav,
Age : 52 Years, Occ. At present Nil,
R/o. Near Statue of Gautam Budha,
Baudha Nagar, Jawahar Colony,
Aurangabad

..Petitioner

V E R S U S

Sheelabai W/o Gautam Jadhav,
Age : 47 Years, Occ. Household,
R/o. C/o. Bhaskar Nawkar,
Vishalnagar, Near Shital Hospital
Garkheda Parisar, Aurangabad

.. Respondent

...
Advocate for the Petitioner : Mr. S.S. Bhingardeo
Advocate for Respondent : Mr. P. N. Ghadge
...

CORAM : SURENDRA P. TAVADE, J.

RESERVED ON : 20-08-2021.

PRONOUNCED ON : 01-10-2021

J U D G M E N T :

1. Rule. Rule taken for hearing forthwith, with the consent of the parties.
2. The petitioner has challenged the Judgment and order passed by the Family Court, Aurangabad in Criminal Misc. Application No. 35 of 2019 dated 25.02.2021. Petitioner is

the husband of respondent. The Respondent had filed application for maintenance under Section 125 of the Code of Criminal Procedure against the petitioner on 20.01.2000 wherein, the respondent was granted maintenance of Rs. 300/- per month to herself and Rs. 200/- per month to her minor daughter. In the year 2004, respondent filed an application for enhancement of maintenance for herself and her daughter, which was decided on 31.07.2004, wherein, the maintenance amount was enhanced to Rs. 400/- p.m. to respondent and Rs. 300/- p.m. to her minor daughter. On 06.10.2008, the respondent had filed an application for enhancement of maintenance for herself and her daughter, which was allowed. The maintenance allowance enhanced to Rs. 1,000/- p.m. for respondent and Rs. 500/- p.m for her minor daughter. On 30.05.2014, the respondent had again filed an application for enhancement of maintenance allowance, which was enhanced to Rs.2000/- per month on 25.01.2016. On 06.06.2019, the respondent had filed an application for enhancement of maintenance, which was allowed. The petitioner was directed to pay monthly maintenance allowance of Rs.5000/- per month to the respondent. The said order is impugned in this petition. It is

contended that the petitioner is aged person. His mother is dependent upon him. He spent huge amount for the marriages of his daughters. He is suffering from spondyloysis, knee pain, ankle pain etc. and he is unable to earn for himself. The amount of maintenance awarded to the respondent is exorbitant. It is contended that the respondent is also working as house-maid and she earns Rs.10,000/- per month. Therefore, it is prayed that the order of maintenance passed by the Family Court, Aurangabad on 25.02.2021, be quashed and set-aside.

3. On the other hand, the learned counsel for the respondent submits that the respondent had filed an affidavit wherein she has described her income as well as expenditure. She had undergone major surgery and she spent huge amount on medical treatment. It is contended that the existing monthly allowance is not sufficient for the respondent. It is also contended that the petitioner is labour contractor. He has having agricultural land, therefore, he is in a position to pay monthly maintenance, as awarded by the Family Court. It is contended that there is no merit in the petition, therefore the petition be dismissed.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent. Perused the impugned order. The respondent had filed her affidavit-of-evidence, wherein, she has narrated her physical condition. She has also contended that her house rent is increased. Similarly, prices of essential commodities are increased, therefore she prayed for enhancement of maintenance allowance. The evidence of the respondent is not challenged by the petitioner. Similarly, the petitioner has not lead any cogent evidence to establish that he is suffering from various diseases, similarly his income has been reduced. It is only contended that due to ill health he is not in position to earn his livelihood. Both the petitioner and the respondent are in their fifties, therefore, both of them are in need of the medical treatment. The respondent may be earning her livelihood by doing work as house-maid. But it is compulsion on the respondent to earn something for her survival that does not mean that she is in position to maintain herself. It is the duty of the petitioner to maintain his wife. It appears that the prices of essential commodities are rising high day by day. Similarly, the respondent has undergone operation on

her abdominal problem. Therefore, the respondent is required to spend some extra amount on her medical treatment, therefore, the Family Court has rightly considered the financial conditions of both the parties and allowed the petition for enhancement of monthly maintenance. There is no need to interfere with the said order. Hence I pass the following order.

O R D E R

- (i) Petition is dismissed.
- (ii) Rule is discharged.

(SURENDRA P. TAVADE)
JUDGE

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