

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

CRIMINAL REVISION APPLICATION NO.184 OF 2019

VENKAT S/O. SANGAMNATH DACHAWAR
VERSUS
VAISHALI W/O. VENKAT DACHAWAR AND OTHERS

...
Advocate for Applicant :Shri Sushant V. Dixit
Advocate for Respondent Nos.1 to 3 : Smt.Rutuja H.Khatmode h/f.
Shri Ganesh P. Shinde

...
CORAM : M.G.SEWLIKAR, J.

DATE: 8th December, 2021

PER COURT:-

1. By this revision application, applicant is challenging the order passed by the Family Court, Nanded, dated 6th May 2019 in Petition No.E-19 of 2018, whereby applicant has been directed to pay Rs.4,000/- per month to each of the respondent Nos.1 to 3 and reimburse educational expenses of Rs.1,50,000/- of both the children for academic year 2017-2018.

2. Facts in brief are that respondent No.1 is the wife and respondent Nos.2 and 3 are the son and the daughter respectively of applicant and respondent No.1.

3. It is alleged that after marriage, respondent No.1 started cohabiting with applicant in his joint family at Undri, Tq.Mukhed, District Nanded. She lived there for two years. Since the father

of respondent No.1 started business for applicant, applicant and respondent no.1 alongwith respondent Nos.2 and 3 shifted to Nanded. It is further alleged that applicant started ill treating respondent No.1 for demand of more money to develop his business. Applicant demanded Rs.50,00,000/- from the father of respondent No.1 to build a house. Since the demands were not met, respondent No.1 was driven out of the house. Since respondent no.1 had no alternative but to stay with her parents, she started staying with her parents. It is further alleged that father of respondent No.1 had given cash of Rs.2,00,000/-, two acres land to the applicant and spent money on her marriage, ornaments and plots. Applicant is working as a plotting agent and earning Rs.10,00,000/- per annum. He has his own house and agricultural land at village Undri. On these allegations, respondent No.1 filed application for maintenance against applicant for herself and for her two children.

4. Applicant husband filed written statement and denied all the allegations made in the petition. Applicant submitted that agricultural land bearing Gut No.238 at village Asadvan was purchased from the funds of applicant's father but the father of respondent No.1 managed to add respondent No.1's name as a shareholder. Applicant alleged that in the said 2 acres land, NA layout is prepared which consists of 38 plots. Out of this, 6 plots

were sold for Rs.4,00,000/- each. Thus, huge amount is lying with respondent No.1. Therefore, respondent No.1 cannot claim maintenance. It is further alleged that respondent No.1 cohabited with applicant for a brief period after marriage. Thereafter, she started insisting on the applicant to shift to Nanded because her father belongs to affluent class. Because of the insistence of respondent No.1, applicant shifted to Nanded. However, applicant was treated like a servant by the father of respondent No.1. It is further alleged that in the year 2011, respondent No.1 burnt to ashes all the clothes purchased during their marriage and left the company of the applicant. On these allegations, he sought to reject the application of respondent No.1 for maintenance.

5. Learned Family Court allowed the application and awarded maintenance @ Rs.4,000/- per month to each of respondent Nos.1 to 3 and also directed that applicant shall reimburse Rs.1,50,000/- to respondent No.1 towards educational expenses of both the children for the academic year 2017-2018. It was further held that respondent Nos.2 and 3 are entitled for maintenance till they attain age of majority.

6. I have heard Shri S.V.Dixit, learned counsel for the applicant and Smt. Rutuja H.Khatmode, learned counsel holding

for Shri G.P.Shinde, learned counsel for the respondents .

7. Shri Dixit, learned counsel for the applicant submitted that the learned Family Court has erroneously held that applicant has refused and neglected to maintain respondent Nos.1 to 3. He submitted that at the insistence of respondent No.1, applicant shifted from his village to Nanded. Father of respondent No.1 had started a business for applicant. However, applicant was treated like a servant by the father of respondent No.1. He submitted that he has been paying amount of maintenance to respondents regularly. He submitted that without fixing monthly income of the applicant, learned Family Court has granted amount of Rs.4,000/- per month to each of respondent Nos.1 to 3. According to Shri Dixit, learned counsel, applicant's family owns agricultural land of 1 Hectare 33 Gunthas. He submitted that mother of applicant is an old aged lady of 70 years. Applicant has a brother and he had to incur his expenses for the treatment of his brother and the mother. Applicant does not have agricultural land. He submitted that the land is owned by his family and it is non-agricultural land. He submitted that applicant does not do farming. He had shifted to Nanded and he is doing labour work. He hardly gets Rs.300/- per day as wages. Therefore, maintenance amount of Rs.4,000/- for each of the

respondent Nos.1 to 3 is beyond his financial capacity and therefore, it should be reduced. He submitted that respondent No.1 has not adduced any evidence to show that applicant has any business or his income is Rs.10,00,000/- per annum as alleged. He, therefore, prayed for allowing the application and setting aside the order of maintenance granted by the Family Court to respondent Nos.1 to 3. He submitted that during last two years, applicant was without any job and therefore, for these two years atleast amount of maintenance be reduced to half. He further submitted that father of respondent No.1 is rich. Respondent No.1, therefore, does not need maintenance. He further submitted that applicant paid amount of school fees. Therefore, there was no question of reimbursing the amount of school fees to respondent No.1. He, therefore, prayed for setting aside the order of Family Court and allowing the revision application.

8. Smt.Rutuja H.Khatmode, learned counsel for respondent Nos.1 to 3 supported the Judgment and order of the learned Family Court.

9. Perused the Judgment and order passed by the learned Family Court. It is not in dispute that applicant and respondent No.1 alongwith two children were living at village Undri alongwith

applicant, his mother and brother. It is also not in dispute that applicant shifted to Nanded as the father of respondent No.1 had started business for applicant. It is contended that applicant was treated like a servant by respondent No.1's father. The learned Family Court has observed that it is only with an intention to save the marriage of respondent No.1, father of respondent No.1 started electric shop for the applicant. It is thus clear that father of respondent no.1 tried his level best to make applicant independent so far as financial aspects are concerned. Merely alleging that he was treated like a servant is not enough. Learned Family Court has given cogent reasons for not accepting this allegation. The learned Family Court observed that the said contention of the respondent (applicant herein) does not appear to be believable because the father of the respondent No.1 herein started business of electric shop for applicant in Nanded. Father of respondent No.1 also involved the applicant in his business of plotting. Learned Family Court, therefore, justified in observing that if applicant was being treated as servant, father of respondent No.1 could not have started an independent electric shop for him. Applicant did not explain as to why he stopped his electric shop. This clearly shows that respondent No.1 and her father tried their level best to make the applicant financially independent. Therefore, there appears no substance

in the contention of the applicant that he was treated like a servant by respondent No.1's father.

10. It appears that applicant transferred agricultural land in the name of his mother and brother. The intention behind this transfer is clear. He did this with an oblique motive to avoid maintenance. Applicant, admittedly, is now residing at Nanded. He is doing labour work. He has contended that he has deposited Rs.1,50,000/- towards school fees of both the children. Nothing is placed on record to show that applicant himself paid Rs.1,50,000/- towards school fees or educational expenses. Therefore, the learned Family Court did not commit any error in granting maintenance @ Rs.4,000/- per month to each of the respondents having regard to continuous increase in price index. In this view of the matter, revision is devoid of any substance. Hence, the order.

ORDER

(i) Revision application is dismissed.

(ii) Order dated 6th May, 2019 passed by the learned Family Court, Nanded in Petition No.E-19 of 2018 is confirmed.

(M.G.SEWLIKAR)
JUDGE