

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

32 CRIMINAL REVISION APPLICATION NO.112 OF 2020

NILESH S/O SHRINIWAS BANGAD
VERSUS
SAU. SNEHAL W/O NILESH BANGAD

...
Advocate for Applicant : Shri N.T.Tribhuwan
Advocate for Respondent : Shri N.K.Chaudhari

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

DATE: 6th December, 2021

PER COURT:-

1. Heard.
2. Shri N.T.Tribhuwan, learned counsel for the applicant submits that respondent had filed Petition No.E-29 of 2020 in the Family Court at Jalna. This petition is for maintenance under Section 125 of the Code of Criminal Procedure.
3. Shri Tribhuwan, learned counsel for the applicant submits that summons was served on him. The applicant did not lodge his appearance in the Family Court at Jalna as before 3rd March, 2020 i.e. date for the appearance in the petition, compromise talks were in the final stage. Terms of compromise were finalized. In terms of compromise, applicant was to pay Rs.1,00,000/- before 3rd March, 2020. It was also agreed that

remaining amount of Rs.1,50,000/- shall be paid and other articles shall be handed over to the respondent within a specified period. He submits that applicant could not honour his commitment as soon thereafter lock down was imposed because of pandemic situation created due to Covid-19. He submits that it was also agreed that respondent shall withdraw the maintenance petition pending before the Family Court. Respondent instead of withdrawing the petition, proceeded with it, as a result of which on 3rd August, 2020, it was decided *exparte*. Maintenance @ Rs.5,000/- is awarded to the respondent wife by the Family Court by its order dated 3rd August, 2020.

4. Shri Tribhuwan, learned counsel for the applicant submits that he could not honour commitment as lock down started. He realized only after respondent filed execution petition and notice was served on him that respondent did not withdraw petition for maintenance. He has, therefore, challenged the said order contending therein that he shall be given an opportunity to meet the allegations made against him.

5. Shri N.K.Choudhari, learned counsel for respondent vehemently opposed the submissions made by Shri Tribhuwan, learned counsel for the applicant. He contended that the terms

of compromise have been incorporated by him in the affidavit in reply. None of those terms were complied. Remaining amount or Rs.1,50,000/- was not paid and other articles were not handed over to the respondent. Therefore, the respondent, under *bonafide* impression that applicant did not want to honour his promise, proceeded with the application for maintenance. He submits that no ground is made out for remanding the matter to the trial Court.

6. It is not in dispute that compromise talks were going on between the parties. One of the terms of compromise was that applicant should pay Rs.2,50,000/- to the respondent and other articles. Applicant had paid Rs.1,00,000/- and did not pay remaining amount of Rs.1,50,000/- and did not hand over other articles. The reasons for non-payment of the amount assigned by the applicant seem to be proper as in the month of March 2020 lock down started because of pandemic situation created due to Covid-19. It is common knowledge that the world had come to standstill due to the pandemic. People were not allowed to step out of their houses. Naturally, therefore, applicant had no means of transport to lodge the appearance before the Court. Moreover, learned counsel for the applicant is justified in saying that on account of compromise, applicant was under impression that Petition No.E-29 of 2020 would be withdrawn by the

respondent. It appears that respondent did not withdraw the petition because of lack of communication. However, considering the pandemic situation which was created due to Covid-19, I find it appropriate to set aside the order of maintenance by putting some conditions.

7. Learned counsel for the applicant submits that he has deposited Rs.37,000/- in the trial Court towards arrears of maintenance. In view of this, following order is passed:-

ORDER

(i) Impugned order dated 3rd August, 2020 passed by the learned Judge, Family Court, Jalna in Petition No.E-29 of 2020 is set aside.

(ii) Applicant shall pay Rs.3,000/- per month as maintenance to the respondent till the disposal of the Petition pending before the Family Court.

(iii) Parties to appear before the Family Court on 17th December, 2021.

(iv) Application is disposed of.

(M.G.SEWLIKAR)
JUDGE