

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

CRIMINAL REVISION APPLICATION NO. 138 OF 2022

Feroz Maheboob Pathan

.. Applicant

Versus

Aafrin Feroz Pathan and another

.. Respondents

Smt. Ranjana D. Reddy, Advocate for the Applicant.

Mr. Santosh N. Patne, Advocate for Respondents.

CORAM : BHARAT P. DESHPANDE, J.

DATED : 26th AUGUST, 2022.

PER COURT:-

1. This is a revision filed challenging the order passed by the learned Family Court, Osmanabad in Petition No. E-14/2018 wherein, the application under Section 125 of the Code of Criminal Procedure filed by the respondents was partly allowed. The present applicant being husband is directed to pay Rs. 5,000/- (Rs. Five Thousand only) per month to respondent No. 1 - wife and Rs. 2,000/- (Rs. Two Thousand only) per month to respondent No. 2 – child from the date of filing of the application.

2. Heard learned counsel for the for the applicant and learned counsel for the respondents.

3. Learned counsel for the applicant submits that the applicant is not earning any amount whereas, respondent No. 1 is highly educated and able

to earn and maintain herself. She submitted that, respondent No. 1's father is a P.S.I. and influential person and therefore, complaints were filed against the present applicant. She submitted that, the learned Family Court observed in paragraph Nos. 33 and 34 of the impugned judgment that respondent No. 1 failed to produce any evidence regarding income of the present applicant, however, the learned Family Court awarded maintenance which is incorrect. She placed reliance on the case of **Smt. Pramila Bhatia Vs. Vijay Kumar Bhati** reported in **AIR 2000 Rajasthan 362**.

4. Learned counsel for the respondents opposed the present revision application on the ground that the learned Family Court has considered all aspects and granted maintenance on the ground that it is the responsibility of the husband to maintain the wife and child.

5. I have perused the entire record as well as the impugned order. It is no doubt true that, the wife was unable to produce any material to show the income of the applicant/husband. However, it is also a fact that the present applicant avoided to step into the witness box and thereby depriving the opportunity to wife to cross-examine him so as to find out his income.

6. It is admitted that the applicant is a post graduate and highly qualified person and till the year 2016 he was working with some institute at Nagpur. It is also a fact that the family of the applicant is having their own house and some part is rented. Therefore, the observations of the learned Family Court

in paragraph Nos. 35 and 36 cannot be faulted with.

7. In the case of **Smt. Pramila Bhatia** (supra), there was dispute that the husband was unemployed and was dependent on the income of his mother. In the present matter, there is no such evidence brought on record by the present applicant who in fact, failed to step into the witness box. This clearly shows that the husband avoided to step into the witness box in order not to give opportunity to the wife to cross-examine him about the income. Therefore, the said decision is not applicable to the facts of the matter.

8. The impugned order passed by the learned Family Court is just and proper and there is no illegality or infirmity in awarding of maintenance of Rs. 5,000/- (Rs. Five Thousand only) and Rs. 2,000/- (Rs. Two Thousand only) in favour of both the respondents. Thus, no interference is warranted in the revisional jurisdiction.

9. The revision application is therefore fails and accordingly dismissed.

(BHARAT P. DESHPANDE, J.)

P.S.B.