

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

967 CRIMINAL REVISION APPLICATION NO.180 OF 2022

LALIT MADHUKAR INGALE
VERSUS
NILIMA W/O. LALIT INGALE

...
Mr.B.R. Kedar, advocate for applicant.
Mr.A.I. Deshmukh, advocate for respondent.

...
CORAM : S.G. MEHARE, J.
DATE : NOVEMBER 10, 2022

PER COURT :-

. Heard learned counsel for the applicant/husband and the learned counsel for the respondent/wife.

2. The applicant/husband has challenged the order granting interim maintenance to the respondent/wife for Rs.9,500/- per month from the date of the application, passed by the learned Judicial Magistrate, First Class, Jalgaon and confirmed by the learned Additional Sessions Judge, Jalgaon.

3. The learned counsel for the applicant has vehemently argued that both the Courts did not consider the ability of the respondent/wife to earn. She is also highly qualified. Both the Courts also did not consider the expenses to be borne by the applicant at Mumbai. After making the statutory deductions, he is getting salary of

Rs.44,000/- per month. He has to pay about Rs.15,000/- for house rent. He has liability to maintain his ailing mother and age old father. He has also to spend the money on his sister. These material aspects have not been considered by both Courts. Hence, granting maintenance of Rs.9,500/- is disproportionate to his income and liability and burdensome. The Petition was filed under the Domestic Violence Act. The statutory remedy for maintenance is available under the substantial law. He has also argued that the respondent/wife did not disclose her income by way of affidavit as directed by the Hon'ble Supreme Court in the case of *Rajnesh V/s Neha and another decided on 4th November, 2020 in Criminal Appeal No.730/2020*. He has vehemently argued that in view of the facts of the case, the liability of the applicant was material aspect and it is to be considered, hence both the impugned orders warrant interference at the hands of this Court.

4. Per contra, the learned counsel for the respondent/wife vehemently argued that due to indecent behaviour of the father-in-law, the wife was to leave the house. She was physically and mentally tortured. She was not honoured as a wife and daughter-in-law. Her sister-in-law was also committing the domestic violence against her. At the time of filing of the Petition, the respondent/wife was having no source of income.

Both the Courts have correctly observed that the maintenance should be granted considering the standard of living of both sides. The respondent/wife is educated but soon after the marriage she had to leave her job and join the company of the applicant, but unfortunately within a short time she was domestically harassed and has to stay with her parents. Considering the income of the husband and having no liability of his parents, the quantum determined by the Courts below is proper and correct. Father of the applicant is pensioner and practicing Lawyer at Bhusawal. He has also the agricultural lands, so he has sufficient income to maintain himself and his wife. He is also able to look after his daughter. Therefore, the applicant has no liability to maintain any one except the wife/respondent.

5. Perused both impugned orders. The parties have filed the affidavit as per the directions issued by the Hon'ble Supreme Court in the case of ***Rajnesh V/s Neha and another (supra)***. It is not in dispute that at the time of filing of the application, the respondent/wife had no job. Though the allegations have been leveled that she is taking tuitions, there was no evidence to that effect. The applicant has primary duty to maintain his wife. The standard of living of the parties is the criteria to determine the quantum. The income of the

applicant has been proved on record. It is not seriously disputed that his father has pension and income from agricultural field. So, it can not be accepted that the applicant has sole liability to maintain his parents. Both are highly qualified. Considering all relevant aspects, this Court is of the view, neither of the Courts, while determining the quantum of the maintenance, have committed error of law that warrants the interference.

6. For the reasons stated above, the application stands dismissed. However, the Judicial Magistrate, First Class at Jalgaon may expedite the trial subject to cooperation of both sides.

7. Needless to state, the observations are limited to this revision application only.

(S.G. MEHARE, J.)

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