

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.209 OF 2022

Sunil s/o. Shrirang Dake,
Age 42 years, Occu. Service,
R/o. Near Star Bakery, Iqbal Nagar,
Parbhani, Taluka and District Parbhani
Official Address :
District and Sessions Court, Parbhani.

.. Applicants

Versus

1. Surekha w/o. Sunil Dake,
Age 37 years, Occu. Household,
R/o. Near Star Bakery, Iqbal Nagar,
Parbhani, Taluka and District Parbhani
At present : Dr. Ambedkar Nagar,
Parbhani, Taluka and District Parbhani

2. Shrirang s/o. Sopanrao Dake,
Age 69 years, Occu. Pensioner,
R/o. Near Star Bakery, Iqbal Nagar,
Parbhani, Taluka and District Parbhani

3. Sumanbai w/o. Shrirang Dake,
Age 66 years, Occu. Household,
R/o. Near Star Bakery, Iqbal Nagar,
Parbhani, Taluka and District Parbhani

.. Respondents

Mr. Pravin N. Kalani, Advocate for Applicant;
Mr. Jitendra N. Ghuge, Advocate for Respondent No.1

CORAM : S. G. MEHARE, J.

DATE : 25-11-2022

ORAL JUDGMENT

1. Rule made returnable forthwith.

2. Heard finally, with the consent of the learned counsel for the
appearing parties.

3. The applicant/husband has preferred the present revision application against the order enhancing the interim maintenance from Rs.3,500/- to Rs.7,000/- per month by the impugned Judgment and order of the learned Additional Sessions Judge, Parbhani, in P.W.D.V.A. Appeal No. 11 of 2020, dated 11.04.2022.

4. The learned counsel for the applicant has vehemently argued that the learned Additional Sessions Judge exorbitantly enhanced interim maintenance from Rs.3,500/- to Rs.7,000/- per month without considering the liabilities of the applicant/husband. There are various deductions. He was getting a salary of not more than Rs.25,000/- He has also argued that the evidence affidavit was submitted in the case. The respondent/wife is extracting the money by protracting the trial. Since the issue of interim maintenance is involved, that is coming in the way of the final disposal. He also added that the interim maintenance of Rs.10,000/- has recently been granted to the respondent/wife in a case filed by her under Section 125 of the Code of Criminal Procedure. The applicant has also challenged the said order before the competent Court of law. He would submit that the applicant has a strong case on merits and has a chance of success. However, the wife has apprehension about losing it; hence, she wants to keep the proceeding pending, insisting on interim maintenance.

5. The learned counsel for respondent No.1 would submit that the applicant/husband is getting a gross salary of Rs.50,687/- per month. He has deliberately increased his deductions. However, the law is settled that only statutory deductions are exempted from considering the income for determining the quantum of maintenance. He is a Junior Clerk in the District Court and has no liability to maintain anybody except the respondent/wife. He was very irregular in paying the interim maintenance. Due to his fault, the proceeding could not be concluded. As far as the quantum is concerned, considering his income, liability and need of the respondent/wife, the learned Additional Sessions Judge has correctly determined the maintenance of Rs.7,000/- per month. Therefore, there is no substance in the revision application.

6. Perused the papers. It reveals from the salary slip of the husband that a heavy amount has been deducted towards the cooperative society. It is not a permissible statutory deduction for quantifying maintenance. Hence, it cannot be accepted that he has no sufficient income to pay for the maintenance. The possibility of increasing deductions towards non-statutory deductions to avoid maintenance can not be ruled out.

7. Considering the matter on merit, the Court is of the view that the quantum determined by the learned Additional Sessions Judge is correct, legal and free from error. However, there appears a

substance in the submission of the learned counsel for the applicant that the case was ready for final disposal. But, it could not progress due to proceeding before the appellate Courts. Expeditious disposal of the dispute is a right of every litigant. Therefore, the Court is of the view that the time may be given to the applicant to clear the arrears of interim maintenance granted by the learned Additional Sessions Judge, Parbhani. Hence, the following order:-

O R D E R

- (i) The revision application stands dismissed.
- (ii) The applicant is to clear the arrears of interim maintenance @ Rs.7,000/- per month as per the order of the learned Additional District Judge, Parbhani, within one year by equal instalment, if not deposited, and continue to pay interim maintenance Rs.7,000/- per month till the conclusion of the application.
- (iii) If the learned trial Court has observed that the respondent/wife protracted the trial for recovery of interim maintenance, the order granting maintenance may be reviewed.
- (iv) Both parties are to cooperate with the trial Court to get the matter disposed of at the earliest.
- (v) Rule stands discharged. No order as to costs.

**(S. G. MEHARE)
JUDGE**