

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.104 OF 2021

RAHUL TUKARAM PATIL
VERSUS
MAYURI RAHUL PATIL AND ANOTHER

...
Advocate for Applicant : Ms. Seema T. Pawar h/f. Mr. Ajay G. Talhar
Advocate for Respondents : Mr. Ujwal S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 22-06-2022

PER COURT :-

Heard the learned counsel for the applicant-husband and the learned counsel for the respondents.

2. By the present Criminal Revision Application, the applicant-husband has challenged the order granting interim maintenance, dated 20.03.2021 passed by the learned Judge, Family Court, Jalgaon, below Exhibit- "7" under Section 125 of the Code of Criminal Procedure, in Criminal Petition No. E-436 of 2019, directing the applicant to pay interim maintenance of Rs.15,000/- per month to respondent No.1 and Rs.7,000/- per month to respondent No.2 till disposal of the petition.

3. Admitting the relations and the job of the applicant in Dubai, Mr. A. G. Talhar, learned counsel for the applicant, has vehemently

argued that the learned Judge did not consider the family responsibility of the applicant. The learned Judge has also not considered the qualification and eligibility of respondent no.1 to get the job, and she was doing the job in Dubai. He has also argued that respondent no.1 - wife has falsely submitted that presently the applicant is getting a salary of Rs.2 Lakh per month. He requested to consider the responsibilities of his family and the income of the applicant in granting interim maintenance. The same has been ignored by the learned Family Court Judge while passing the impugned order. Therefore, interference is warranted in the impugned order by this Court.

4. Learned Counsel for the respondents has vehemently argued that the interim maintenance granted by the learned Judge is just and proper considering the inflation of the day. The respondents have no source of income. The applicant/husband has a handsome salary. He did not care to contest the petition. Whether he has any family responsibility or not is a matter of evidence. The learned Judge has rightly considered the *prima facie* case for interim maintenance. There is no substance in the revision application; hence, it be dismissed.

5. Following point arises for determination of this Court, and the findings thereon are recorded for the reasons;

I) Whether the impugned order is legal, proper and correct?

II) What order?

6. The relation between the applicant and respondents is not disputed. The fact that the applicant is doing a job in Dubai, is also not disputed. The respondent-wife has alleged against the applicant that he has caused physical and mental cruelty to her. He has refused and neglected her and her son without any justifiable reasons. In revisional powers, the Court has to examine the legality, propriety and correctness of the impugned order. The interim maintenance has been granted; therefore, there is little scope to go through the facts. The learned Judge has correctly observed that while deciding the application for interim maintenance, the applicant who is seeking maintenance amount has to prove a *prima facie* case for grant of the relief. The applicant-husband has no case that he ever showed his readiness and willingness to pay the maintenance. On the contrary, the respondent-wife and son had to knock on the doors of the law to seek maintenance. Admittedly, the respondent-wife and the son reside separately from the applicant-husband. The present applicant has no *prima facie* evidence to show that the respondent-wife has a source of income. The applicant-husband has an obligation to maintain his wife and child. In the absence of

cogent and reliable evidence, it can safely be inferred that the present applicant-husband did not take care of his wife and child and has not made any provision for their maintenance. Considering the inflation of the day, expensive life, their standard of living, and the income of the applicant-husband, the maintenance of Rs.15,000/- per month to respondent no.1 -wife and Rs.7,000/- to respondent no.2 - son appears just and reasonable.

7. After having gone through the facts of the case and the income of the applicant-husband, this Court finds that the impugned order is correct, legal and proper and does not warrant interference by this Court. Hence, point no.1 is answered in the affirmative.

8. Discussions made above led the Court to arrive at the conclusion that no illegality is committed by the learned Judge in passing the reasoned order. Therefore, the Revision deserves to be dismissed; hence, the following order -

- i) Criminal Revision Application stands dismissed.
- ii) No order as to the costs.

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