

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 CRIMINAL REVISION APPLICATION NO. 143 OF 2021

AVINASH S/O PUNJARAM SALVE
VERSUS
SUPRIYA W/O AVINASH SALVE AND ANOTHER

.....
Advocate for Applicant : Mr. Taher Ali Quadri
Advocate for Respondent Nos. 1 and 2 : Mr. Ashutosh S. Kulkarni
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CORAM : BHARAT P. DESHPANDE, J.
DATED : 28th JULY 2022

PER COURT:-

1. By way of present revision application, the applicant is challenging the impugned order dated 30.7.2021 passed by the Judge, Family Court, Nanded in Petition No. E-150 of 2018. The said petition was filed by the respondents for grant of maintenance under Section 125 of Cr.P.C. The learned Family Court granted maintenance of Rs.12,000/- per month to respondent No.1 and Rs.5000/- per month to respondent No.2 from the date of filing of the application. Further, the present applicant was also directed to pay Rs.5000/- to the respondents towards costs of the said application.

2. Learned counsel for the applicant invited attention of this Court to the application filed by the applicant at Exh.32 dated 23.7.2021 basically for recalling of defence evidence as learned Family Court, on 5.7.2021, closed the defence evidence as the present applicant failed to lead evidence and placed the matter for arguments on

17.7.2021.

3. Learned counsel also invited attention of this Court to the contents of the application at Exh.32 and claimed that the applicant was serving at Chandrapur which is around 364 kms. from Nanded and due to Covid-19 pandemic at the relevant time, there were restrictions of inter district travelling. Therefore, he was unable to remain present before the Family Court at Nanded to lead his defence evidence.

4. Learned Family Court rejected the said application with a very cryptic order by observing that the respondent (present applicant) is absent and his evidence is not produced and that relief of maintenance to the minor is in urgent nature and not barred by Covid-19 SOP.

5. It is observed that the learned Family Court has completely misunderstood the contents of the application. The plea raised by the present applicant in not attending the Family Court at Nanded from Chandrapur was in fact genuine and during Covid-19 period, there were lot of restrictions for travelling from one district to another district. Learned Family Court failed to appreciate such vital aspect. No doubt, during the said SOP issued by this Court and the Government, the matters regarding urgent reliefs were taken. However, the applicant was working at a distance of 365 kms. and he

was thereby denied opportunity to lead his evidence in defence. Such rejection is against the principles of natural justice and needs to be interfered with.

6. With this limited aspect, revision could be partly allowed.

7. However, it is made clear that the maintenance which is awarded by the learned Family Court to the present respondents is to be considered as interim maintenance till disposal of the petition before the learned Family Court on remand. Similarly, the applicant has to deposit the arrears and costs within a period of two months from today and continue to deposit the maintenance amount awarded by the learned Family Court as interim maintenance till disposal of the petition. Hence, the following order :-

O R D E R

- I. Criminal revision application is partly allowed.
- II. The impugned order dated 30.7.2021 passed in petition no. E-150 of 2018 by the Family Court, Nanded is quashed and set aside.
- III. Similarly the application at Exh.32 filed by the present applicant for recalling of his evidence in defence is allowed.
- IV. The learned Family Court shall permit the present applicant to

lead his defence evidence.

V. The matter shall be decided within a period of three months from the date of receipt of writ from this Court.

VI. The parties shall appear before the Family Court at Nanded on 20.8.2022.

VII. Criminal revision application is accordingly disposed of.

(BHARAT P. DESHPANDE, J.)

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