

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

934 CRIMINAL REVISION APPLICATION NO.277 OF 2019

**TUKARAM GANGARAM PATIL-WANKHEDE
VERSUS
CHHAYA TUKARAM PATIL-WANKHEDE AND ANR**

Shri. A. I. Deshmukh, Advocate for the applicant
Smt. Saie S. Joshi i/b J. P. Legal Associates for respondent No.1.

**CORAM : M. G. SEWLIKAR, J.
DATED : 10th March, 2022**

PER COURT :-

1. Heard.
2. Applicant is the husband of respondent No. 1. Applicant had filed Criminal Misc. Application for maintenance bearing No. 165 of 2000 before the Judicial Magistrate First Class, Pachora and vide order dated 29th June, 2000 maintenance was awarded at the rate of Rs.1,000/- per month from the date of the order. This order was confirmed in revision by the Sessions Court, Jalgaon vide judgment and order dated 6th August, 2003.
3. Respondent thereafter filed an application for enhancement in the amount of maintenance. She contended that because of continuous rise in price index amount of

Rs.1,000/- is too meager to make both ends meet. This application was contested by the applicant. The learned Judicial Magistrate First Class, Pachora after recording evidence and after considering the submissions advanced on behalf of both the sides, enhanced maintenance by Rs.200/-. Respondents challenged this order before the learned Sessions Judge, Jalgaon. Learned Sessions Judge enhanced the amount of maintenance to Rs.2500/-. This order is impugned in this revision.

4. Learned counsel Shri. Deshmukh for the applicant submits that notice of revision was not served on the applicant but it was served on his major son. He submits that his son lives separately from him in the same village. Summons was served on him. Therefore, applicant did not have knowledge about the filing of the application for enhancement by the respondents. He, therefore, seeks setting aside this order and remanding the application to the learned Sessions Judge for rehearing.

5. He further submits that the applicant is a poor agriculturist. He owns only 4-5 acres of agricultural land. He has no source of income. Therefore, the amount enhanced by the

Sessions Court is excessive and the amount awarded by the learned Magistrate needs to be restored.

6. Learned counsel Smt. Joshi h/f J.P. Legal Associates submits that the applicant is suppressing the facts. He is an agriculturist and also a medical practitioner. He, therefore, earns quite a reasonable sum per month. Therefore, for a medical practitioner, this amount is too small to challenge before this Court.

7. Learned counsel Shri. Deshmukh submits that applicant holds Diploma in Homeopathic Medicine and Surgery (D.H.M.S.). He submits that he is a non practicing doctor.

8. Applicant was 46 years of age at the time of filing of the application for enhancement in the amount of maintenance. She is living in different village. Applicant claims that his son is not living with him. For this purpose he has not adduced any evidence to show that his son is living separately from him in the same village. Therefore, it is difficult to fathom that applicant is not living with his son.

9. Even on merits I do not find that the learned Sessions Judge committed any error in enhancing the amount of

maintenance to Rs.2500/-. Going by the arguments of the learned counsel for the applicant Shri. Deshmukh, applicant is possessing 4-5 acres of agricultural land. Naturally his income must not be less than Rs.15,000/- per month. Considering this and the fact that applicant is holding D.H.M.S., this amount cannot be said to be excessive. In this view of the matter I don't find any error in the appreciation made by the learned Sessions Judge. Hence the revision is bereft of any merit. Hence the order.

ORDER

- (i) Application is dismissed.
- (ii) Applicant to pay Rs.5,000/- (Rupees Five Thousand) as cost of this litigation to the respondents.

. Learned counsel Shri. Deshmukh seeks leave to deposit cost in the Court of the Judicial Magistrate First Class.

. Leave granted.

[M. G. SEWLIKAR, J.]

ssp