

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

34 CRIMINAL REVISION APPLICATION NO.190 OF 2021

NEELAM W/O. SACHIN SAKHARE AND ANOTHER
VERSUS
SACHIN SHRIDHARRAO SAKHARE AND ANOTHER

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Advocate for Applicants : Ms. Reddy Ranjana D.
Advocate for Respondent No.1 : Mr. S. P. Salgar.

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CORAM : S. G. MEHARE, J.
DATE : 14.11.2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned counsel for the respondent. The order passed by the learned Judge, Family Court, Nanded in Petition No.E-86 of 2018, dated 26.06.2020 granting meager amount of maintenance and that to from the date of the impugned order has been impugned before this Court.

2. The relations between the parties is not in question. It is also not disputed that the respondent/husband did not appear before the learned Judge, Family Court, Nanded. He also not denied that he is in service in Irrigation Department. He has permanent source of income. The marital relation is also not denied.

3. Learned counsel appearing for the applicant would submit that the income of the respondent was proved before the Court. It was also proved that the respondent has no responsibility to maintain his mother. The Court has observed specifically that the mother of the respondent gets pension. However, the Court while determining the quantum of the maintenance did not consider the inflation. The needs of the applicants incorrectly determined the maintenance of Rs.4,000/- per month for applicant No.1 and Rs.2,000/- for applicant No.2 son. She would vehemently argue that while granting the maintenance from the date of the impugned order, no reasons have been assigned by the Judge, Family Court, Nanded. Learned counsel for the applicants has vehemently argued that considering the income, the standard of living, the maintenance granted by the learned Judge, Family Court is very small. It is very difficult for applicants to live the life on such meager amount of Rs.6,000/- per month. When at the time of disposing of the case, he had take home salary of Rs.24,973/- per month. She also filed some documents now showing that his salary has been increased. Referring to the material available on record and the proved income of the

respondent, she would submit that the impugned order needs modification.

4. Learned counsel for the respondent would submit that the subsequent income of the respondent cannot be considered as it was not before the Trial Court. However, he has tried to point out that subsequent to passing of the order, the applicant is suffering from heart disease. He has to spent atleast Rs.5,000/- at his medication. He has also argued that he has to pay EMI of Rs.11,450/- per month for the housing loan. The same rule is applicable to him that the subsequent events which were not before the Court cannot be considered. Learned counsel for the respondent states that he was and is ready to cohabit with the wife along with her daughter, such submissions have no consideration at this juncture as he did not contest the petition.

5. While considering the quantum of the maintenance, the Court has to consider the family background, the standard of living of the family at the time of refusal to maintain the wife and children. It is not in dispute that at the time of filing the petition, the daughter was around six months old. The wife was 30 years old. The respondent did not contest the petition. The proved income of respondent was Rs.24,973/- per month

with no liability. Learned counsel for the applicant has correctly pointed out from the impugned order that while granting the maintenance, the learned Family Judge did not assign any reason. It was incumbent upon the learned Judge, Family Court to assign the reasons when granting the maintenance from the date of the order, it is an apparent illegality committed by the learned Judge, Family Court, Nanded. As far as the quantum of maintenance granted to the applicants is concerned and considering the standard of living and the inflation of the day, the Court is of the view that the amount granted to them was meager. The child was growing. It was very difficult to maintain the child in the maintenance of Rs.2,000/- per month. Considering the sky-touching prices of daily needs, the Court is also of the view that the maintenance of Rs.4,000/- to the fully grown up lady is also meager. Both the parties are from good families. They have good standard of living. Therefore, the application deserves to be allowed by enhancing the maintenance from the date of admission. Taking into consideration, the income of respondent No.1 at the time of passing of the impugned order, the Court is of the view that the wife was entitled to pay Rs.6,000/- per month and the daughter was entitled to pay Rs.4,000/- per month to meet out their necessities. Hence, the maintenance enhanced

to Rs.6,000/- per month to the wife and Rs.4,000/- per month to the daughter from the date of the petition i.e. 03.07.2018.

6. In view of the above observations, the impugned order is modified in above terms. The Criminal Revision Application is allowed.

7. The respondent-husband is directed to clear the arrears of maintenance from the date of filing of the petition i.e. 03.07.2018 within nine months from today and continue to pay the maintenance as directed above.

8. No order as to costs.

(S. G. MEHARE, J.)

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vmk/-