

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.57 OF 2022

Sunil Balasaheb Shalbindre

..... Petitioner

Versus

Surekha Sunil Shalbindre

and others

..... Respondents

Mr. Niranjana Bhavake, Advocate i/b. Bhavake and Associates, for the Petitioner.

Ms. Sharmila S. Kaushik, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 25th FEBRUARY, 2022

P.C. :

1. The petitioner has challenged the impugned order dated 20.10.2021 passed by the Judge, Family Court, Kolhapur below Exhibit-6 in Petition E-31/2019 praying for maintenance application under Section 125 of the Code of Criminal Procedure.

2. Heard Shri Niranjana Bhavake, learned counsel for the petitioner and Ms. Sharmila Kaushik, learned APP for the State.

3. The impugned order mentions the claim of the

respondent-wife for herself and other respondents i.e. her sons. The petitioner herein is the husband of respondent No.1. It is her case that she was residing separately. The petitioner and the respondent No.1 were married on 25.6.2007. The elder son was born on 14.5.2008 and the younger son was born on 23.10.2016. Since 19.7.2019, the parties are residing separately. The respondents had claimed maintenance at Rs.10,000/- per month for each of the respondents. The learned Judge has considered the submissions and the record and had granted Rs.5,000/- per month to each of the respondent Nos.1, 2 and 3.

4. Learned counsel for the petitioner relied on the copy of the certificate issued by the Tahsildar, Bhudargad, . which mentions that the petitioner's income is Rs.58,700/- for the year 2020-21. He submitted that therefore the petitioner's contention that his income is very less, is supported by the Tahsildar's certificate and the amount granted as maintenance is without any basis; as the Respondent No.1 wife has not brought her income on record.

5. I have considered these submissions. I have also perused the impugned order. The learned Judge, Family Court, Kolhapur has given sufficiently cogent reasons in passing the impugned order. It was contention of the respondent – wife that her husband was earning Rs.75,000/- per month from his chicken shop. He has two bungalows which he had given on rent and was earning income between Rs.17,000/- to Rs.18,000/- as rent on these properties.

6. The learned Judge has further observed in paragraph-10 that the petitioner had not disclosed his occupation and source of income. The petitioner had sufficient opportunity to show his bonafides. Even the certificate which is relied on by the learned counsel for the petitioner was not on record before the trial Judge. Neither any such certificate for the previous year was produced. Therefore, the petitioner had not putforth any case to show his actual income.

7. Respondent No.1 has stayed with him since 2007

to 2019. Therefore, as rightly observed by learned Judge there was a strong possibility that she was fully aware of his source of income. Her contention is not really destroyed by the stand taken by the petitioner-husband.

8. Considering the reasonable needs of respondent No.1 as well as respondent No.2 & 3 who are school going children, Rs.5,000/- per month to each of them does not appear to be unreasonable or without basis. The reasoning given by the learned Judge is quite reasonable. I do not see any reason to interfere with that order. The Writ Petition is dismissed.

(SARANG V. KOTWAL, J.)

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By
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