

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.2170 OF 2021**

Pritam Ashok Marle .. Petitioner

Versus

Jayshree Ashok Marle & Anr. .. Respondents

...

Mr.A. M. Savagave for the Petitioner.

Mr.Sandeep S. Koregave for the Respondent.

...

CORAM: BHARATI DANGRE, J.

DATED : 30th JUNE, 2022

P.C:-

1. The petition is filed by a son questioning the amount of maintenance of Rs.5,000/-, which he is directed to pay to his mother under the order of the Family Court, Kolhapur.

2. On an application, being filed by the mother under Section 125 of the Cr.P.C., the Family Court determined her entitlement for interim maintenance. The applicant is a younger son of his mother and recording that in an earlier round, when the mother instituted Petition No.E-2/2016

against her elder son, he was ordered to pay Rs.5,000/- per month by way of maintenance. The mother had deposed that her younger brother i.e. the present petitioner was maintaining her. Considering this, the Family Court had recorded that her elder son is paying an amount of Rs.5,000/- towards maintenance and directed the present petitioner to contribute the sum of Rs.5,000/-

3. Unfortunate is the mother, who has to beseech in front of her sons and knock the door of the Court, seeking direction to her sons, to maintain and take care of her in her old age. She has undergone an eye surgery and is suffering from high B.P.. The liability is sought to be denied by the present petitioner by submitting that he has his own family to maintain. He is, however, reminded of the fact that his mother is also his family and it is not only his moral, but legal responsibility to maintain her.

I find no reason to interfere with the impugned order.

4. The learned counsel for the petitioner has, however, raised an objection to the effect that the Family Court has directed the payment of maintenance from the date of the application i.e. 23/08/2018. He placed reliance upon the decision of the Hon'ble Supreme Court in case of *Jaiminiben*

Hirenbhai Vyas & Anr. Vs. Hirenbhai Rameshchandra Vyas & Anr. [(2015) 2 SCC 385], where the Hon'ble Supreme Court, by referring to Section 354 of the Cr.P.C., had specifically taken a view that whenever maintenance is directed to be paid, either from the date of the application or from the date of the order, the Court should record reasons in support of the order passed by it, in both eventualities.

5. Admittedly, the impugned order is devoid of any reason as to why the maintenance is granted from the date of the application. In such circumstances, the order deserves a modification only to a limited extent that the liability borne by the petitioner, be accepted from the date of the order i.e. 04/02/2020.

Request is made to the learned Judge, Family Court, Kolhapur to determine Petition No.E 21/2018 within a period of six months from today. While determining the amount of maintenance, the learned Judge, Family Court shall take into account the fact that the mother was denied maintenance. Needless to state that the parties are at liberty to advance their submission upon the said aspect of the matter.

6. Since the Family Court is directed to take up the proceedings for it's determination finally, the petitioner shall

clear the arrears of maintenance due and payable from 04/02/2022 within a period of three months. The learned Judge shall take note that the maintenance has been awarded to the mother from 04/02/2020, instead of from the date of the application i.e. 23/08/2018.

7. With the aforesaid, the petition stands disposed off.

(SMT. BHARATI DANGRE, J.)