

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

CRIMINAL REVISION APPLICATION NO.104 OF 2021

Bhaiyasaheb Govindrao Zaware

..... Applicant

Versus

Vaishali Bhaiyasaheb Zaware

and another

.... Respondents

Ms. Pooja Phagnekar, Advocate i/b. Sanjay Kotkar, for the Applicant.

Mr. P.H. Gaikwad, APP, for Respondent No.2-State.

CORAM :SARANG V. KOTWAL, J.

DATE : 18th FEBRUARY, 2022

P.C. :

1. The applicant has challenged the order dated 12.2.2021 passed by the learned Judge, Family Court, Nashik in Petition No.E.133/2015 before that Court. Said petition was for maintenance of Respondents No.1 and 2.

2. By the impugned order, the learned Judge rejected the prayer of respondent No.1 for maintenance but allowed the prayer for maintenance of respondent No.2 and directed the applicant to pay Rs.8,000/- per month towards her maintenance from the date of the order i.e. from

12.2.2021.

3. Learned Judge has decided the petition under Section 13 of the Hindu Marriage Act for dissolution of marriage preferred by respondent No.1 herein against the applicant as well as the aforementioned petition for maintenance and a common order was passed.

4. Heard Ms. Pooja Phagnekar, learned counsel for the applicant.

5. The facts are mentioned in the impugned order. For the sake of convenience, the parties are referred as 'applicant-husband' and 'respondent No.1-wife'. The applicant-husband and respondent No.1-wife got married on 3.5.2009. They have one daughter i.e. respondent No.2, who is 11 years of age as on today. When the couple started residing together, the applicant-husband used to treat respondent No.1-wife with physical and mental cruelty. Since August 2011, respondents No.1 and 2 are residing separately from the applicant-husband. Thereafter respondent No.1-wife made several attempts for cohabitation but in vain. On

the other hand, the case of the applicant-husband is that he made several attempts to bring respondent No.1-wife to reside with him but he was also not successful. According to him, she was taking computer classes and was working and was earning sufficient income. According to the applicant-husband, he was a junior lawyer and was earning meager amount. His parents are old and sick and are dependent on him and, therefore, he is unable to pay maintenance.

6. The learned Judge considered all the rival contentions and observed in paragraph-27 of the order that respondent No.1-wife had established the ground of cruelty by leading cogent evidence on record and that she was entitled for a decree of divorce.

7. As far as the question of maintenance was concerned, the learned Judge observed that respondent No.1-wife was earning salary and, therefore, she was not entitled for any maintenance but the learned Judge went on to observe that in respect of daughter's maintenance the daughter i.e. respondent No.2 was taking education in a

private school. The respondent No.1-wife was maintaining her as they were staying together. The applicant-husband had not stated the exact amount of his income and the learned Judge had drawn adverse inference against that.

8. As far as the quantum is concerned, the learned Judge has observed that though the maintenance of Rs.10,000/- was claimed for respondent No.2, the applicant-husband's parents were handicapped and sick. He was a junior lawyer. These factors were taken into consideration and based on that learned Judge considered the costs of essential commodities, minimum needs, her education and her income source and fixed the quantum at Rs.8,000/- per month.

9. I have considered the reasons given by the learned Judge. The learned Judge has expressed a reasonable view and has taken into account the difficulty of the applicant-husband and that his parents were dependent on him and they were not keeping good health. In spite of that the learned Judge has rightly observed that the need of

the child has to be taken into consideration. As on today, the respondent No.2 is 11 years of age. Her needs are more than Rs.8,000/- per month but since learned Judge has considered these issues and fixed that amount, I am not inclined to interfere with the learned Judge's discretion.

10. I do not find any infirmity in the impugned judgment and order. Respondent No.2 deserves at least that much of amount if not more. Therefore, there is no merit in the revision application. The Revision Application is rejected.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2022.02.22
13:47:08 +0530

(SARANG V. KOTWAL, J.)