

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO.17 OF 2020

Harsh @ Babu Harish Kumar s/o Gurumukhdas Sachdev
Vs.
Kavitadevi wd/o Gurumukhdas Sachdev

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. G. Karmarkar, Advocate for applicant.
Mr. P. S. Tidke, Advocate for non-applicant.

CORAM : AVINASH G. GHAROTE, J.
DATE : 27/04/2022

Mr. Karmarkar, learned counsel for the applicant submits that there is no neglect or refusal to maintain non-applicant on part of the applicant, and the non-applicant is residing in a separate portion of the same house, considering which, the judgment dated 15.11.2019 passed by the learned Family Court, Nagpur granting maintenance at the rate of Rs.25,000/- per month to the non-applicant, who is the mother of the applicant, is claimed to be not unsustainable in law. Reliance is placed upon *Sumanbai Ramesh Garje Vs. Ramesh Dagadu Garje, 2014 ALL MR (Cri.) 3710* and *Mammad Kunhi Vs. Rukhiya, 1978 Cri.L.J. 1645*. He therefore submits, that the impugned judgment is liable to be quashed and set aside.

2. Mr. Tidke, learned counsel for the non-applicant submits that the non-applicant being

mother, is liable to be maintained by the applicant, who is her son. The non-applicant is not having any source of income and the impugned judgment is correct and proper.

3. The relationship between the applicant and the non-applicant is of son and mother, which is not disputed. It is not disputed that the husband of the non-applicant Gurumukhdas Sachdev passed away on 14.01.2016 and has left behind substantial immovable properties, one of them being Nazul Plot No.229 and the house constructed thereupon in Ward No.58, Jaripatka, Nagpur, which has been bequeathed with life interest to the non-applicant. It is not in dispute that the applicant is residing in a portion of the house, in which life interest has been bequeathed to the non-applicant. Thus, the portion of the house, in which the non-applicant has life interest is being used by the applicant without payment of any license fee or any amount. The impugned judgment indicates that the non-applicant – mother, who is around 65 years of age has no source of income, as against which, the grain business as well as the shop No.10 in building No.12 in Kalamna Market from where it was run by late Gurumukhdas is now being run by the present applicant, considering which, I do not find any infirmity in the impugned judgment, which has awarded the maintenance to the non-applicant – mother and so also the quantum. Though, reliance has been placed

upon *Sumanbai Ramesh Garje* and *Mammad Kunhi* (supra), the fact situation there is totally different, than what is extant in the present one in as much as the applicant - son is occupying the major portion of the premises, in which a life interest has been bequeathed to the non-applicant. Had the applicant vacated the portion occupied by him, then perhaps the non-applicant could have let it on hire so as to make some earning to sustain herself. There is therefore, no merits in the application, the same is dismissed.

4. Needless to say that the arrears of maintenance, shall be cleared of by the applicant within a period of one month from today.

5. The application is therefore, dismissed.

Criminal Application (APPR) No.50 of 2022

6. This Application filed by the non-applicant to withdraw an amount of Rs.2,00,000/- (Rupees Two Lakhs) deposited in this Court, is allowed.

The Criminal Application is disposed of.

JUDGE

Sarkate