

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.35 OF 2020

Shabbir s/o. Najmoddin Rangwale,
Age 49 years, Occu. Nil,
R/o. Kondhwa, Mitha Nagar,
Kondhawa, Pune,
Taluka and District Pune

.. Applicant

Versus

1. Shajahanbegam w/o. Shabbir Rangwale,
Age 33 years, Occu. Household,
2. Aksa d/o. Shabbir Rangwale,
Age 7 years, Occu. Education,
Minor under guardian of respondent No.1,
Both R/o. Khorl Galli, Latur.

.. Respondents

Mr. Prashant B. Jadhav, Advocate for applicant
Mr. S. B. Solanke, Advocate for respondents

CORAM : S. G. MEHARE, J.

DATE : 01-02-2023

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard the learned counsel appearing for the parties.
2. The applicant/husband has impugned the order of Family Court in Petition E-91 of 2020, dated 17.01.2020. The learned Judge, Family Court, granted the maintenance allowance of Rs.6000/- per month to respondent No.1/wife and Rs.2000/- per month to respondent No.2/daughter.

3. The learned counsel for the applicant vehemently argued that respondent No.1 is not legally wedded wife. She had suppressed her earlier marriage. This material aspect has not been considered by the learned Judge, Family Court, Latur. To bolster his argument, the learned counsel for the applicant relied upon the cases, **(i) Umaji Satwji Shep (Died) by L.Rs. versus Gulam Mohmood Gulam Dastgir (Died) by L.Rs, 2022 LiveLaw (Bom) 431 and (ii) Sunder Lal Saini Versus Meena Saini,2021 SCC OnLine Del 4930.**

4. He also added that the applicant has suffered head injury in an accident. He fell down from the second floor. Therefore, his earning capacity has been reduced. It has also been argued that the wife/respondent No.1 had the beauty parlour. She has good income to maintain herself.

5. It is further case of the applicant that the learned Judge, Family Court, Latur did not appreciate the evidence in proper perspective. The income of the applicant was not proved. In absence of any material on record, the learned Judge, Family Court, Latur, erroneously quantified the maintenance amount. Therefore, the revision application is liable to be allowed and the maintenance awarded to respondent No.1/wife is liable to be set aside and maintenance granted to respondent No.2/daughter is liable to be reduced.

6. Per contra, the learned counsel for the respondents has vehemently argued that the applicant was a big business man. He was having handsome income of Rs.13 Lakh per month. He has admitted in his cross-examination that he is the owner of Hardware shop at Pune. The applicant admitted in the notice issued by him through lawyer that, he got married respondent No.1/wife on 09.01.2010 as per Muslim rites and custom. His plea of illegal marriage is the exaggeration of the fact. His income has not been reduced. He is a big business man, but only to avoid maintenance, he has come with a false plea. He has also not produced the evidence that due to fall from the second floor, he has lost his earning capacity. Considering the standard of living, family background and needs of the family, the learned Judge, Family Court, Latur has correctly quantified the maintenance amount. There is no error on the face of the record.

7. Perused the record and the impugned judgment and order.

8. It appears from the record that the stand of the applicant/husband as regards the marriage is not consistent. On one hand, he is coming with the case that his Nikah was forceful and on the other hand, the said marriage was illegal. In the notice issued by the applicant/husband through counsel, he has candidly admitted that he got married respondent No.1/wife on 09.01.2010 as per the Muslim rites and custom. The husband and the wife resided together for about eight years and they were blessed with

a girl child. Till the dispute, the husband never raised objection about illegality of his marriage. That apart, there was no evidence to prove that her earlier marriage was subsisting. Considering the evidence, there appears scope to believe that the applicant/husband was business man. He was having two-three businesses. His inconsistent evidence as regards the income and matrimonial relationship has been correctly discarded by the learned Judge, Family Court, Latur. The learned Judge, Family Court, considered the facts, circumstances, living standard of both parties, rising costs, need of clothes, shelter and medicines, etc. and correctly quantified Rs.6000/- for respondent No.1/wife and Rs.4000/- to respondent No.2/daughter. Considering the standard of living, the quantum of maintenance determined by the learned Judge, Family Court, Latur appears reasonable and proper.

10. In view of the facts of the case, the case laws relied on by the learned counsel for the applicant cannot be applied in the case in hand as its facts are different.

11. After having gone through the material placed before the Court, the evidence and findings recorded by the learned Judge, Family Court, Latur, the impugned order appears legal, proper and correct and there are no grounds to interfere with the same. Hence, criminal revision application stands dismissed. Rule stands discharged.

(S. G. MEHARE, J.)