

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.117 OF 2023

Ajim S/o Chandsahab Patel

... Applicant

Versus

Nilofar W/o Ajim Patel and Anr.

... Respondents

...

Mr. Omprakash V. Waghmare holding for Mr. G. J. Kore, Advocate for
the Applicant

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 20.09.2023

PER COURT :

1. The applicant impugns the order dated 11/01/2023, passed by the learned Family Court, Latur, in Petition E No.235/2021, by which, the respondents are granted the maintenance @ Rs.6000/- per month under the provisions of 125 of the Code of Criminal Procedure [for short 'Cr.P.C'].
2. It is not in dispute that the applicant and respondent no.1 are married couple and respondent no.2 is born out of such wedlock. The respondents filed a proceeding under Section 125 of Cr.P.C before the Family Court, Latur seeking maintenance from the applicant on the ground that, in spite of having sufficient means, the applicant neglected and failed to maintain them.

3. The notice of the said proceeding filed before the Family Court was served upon the applicant. In pursuance of the said notice, he caused appearance before the Family Court. Learned Advocate, who was instructed by the applicant, tendered a pursis that, he has instructions to appear on behalf of the applicant. Thereafter, the matter was referred to marriage Councilor so as to explore amicable settlement of their dispute. The applicant remained present before the marriage Councilor. The applicant and respondent no.1 were interrogated by the marriage Councilor. However, the attempts of conciliation failed. A report to that effect was made to the Court.
4. Pertinently, the applicant failed to file his written statement. Hence, the learned Family Court was required to pass 'No W.S.' order dated 11/08/2022. Thereafter, respondent no.1 recorded her evidence. The applicant failed to cross-examine her. Finally, the learned Family Court allowed the application of the respondents and directed the applicant to pay maintenance of Rs.3,500/- to applicant no.1 and maintenance of Rs.2,500/- to applicant no.2 from the date of application. The order granting maintenance is subjected to challenge in the present revision application.
5. Learned Advocate appearing for the applicant would submit that the applicant was not granted sufficient opportunity to file his reply so also cross-examine the witness. He would submit that the applicant has no source of income. The respondent no.1 is staying away from him on her own volition and the applicant was

always ready and willing to maintain her. He would therefore submit that respondent no.1 is not entitled for the maintenance. Although notice of this revision application is served upon the respondents, none appeared for them.

6. Having considered the submissions advanced, apparently, there is no dispute about the matrimonial relationship between the applicant and respondent no.1 so also the fact that respondent no.2 is born out of their marriage. The respondents have filed the application under Section 125 Cr.P.C, alleging that the marriage between the applicant and respondent no.1 solemnized on 26/04/2019. However, within seven months of the marriage, she was ill-treated on account of demand of dowry. Although the demand of the applicant and his family members was complied to certain extent, the respondent no.1 driven her out of home along with son doubting her character. Since then, she is residing along with her parents. It is further stated that the applicant has failed to arrange for her maintenance. It is also stated that she has no means to maintain herself and respondent no.2.
7. The aforesaid pleading in the application filed under Section 125 of Cr.P.C is not controverted by filing the written statement. The respondent no.1 stepped into the witness box and reiterated the aforesaid contents. The applicant, in spite of sufficient opportunity, failed to cross-examine her. The learned Family Court, based on uncontroverted evidence on record, recorded finding that, the applicant has failed to maintain the respondents without any reason.

8. So far as the quantum of maintenance is concerned, learned Family Court has recorded reason that considering the price index and educational and medical needs of respondent no.2, the total maintenance of Rs.6000/- can be granted. No fault can be found in the approach of the learned Family Court while assessing the maintenance amount of Rs.6000/- in view of uncontroverted pleading placed on record.
9. Resultantly, no ground is made to entertain the present revision application. Hence, the revision application is dismissed.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer