

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2111 OF 2023 IN REVNST/5796/2023
WITH REVNST/5796/2023

DANISH AYYUB SHAIKH
VERSUS
TANZILA DANISH SHAIKH AND ANOTHER

...
Advocate for Applicant : Mr. G. R. Syed
Advocate for Respondents : Mr. Narayan B. Narwade
...

CORAM : S. G. MEHARE, J.

DATE : 07-08-2023

PER COURT :-

1. Heard the learned counsel for the applicant/husband and the learned counsel for the respondents/wife and child.
2. The applicant would submit that since he had lost his job he was disturbed and could not contest the petition on merit, and therefore, the delay is caused in preferring this petition.
3. The learned counsel for the respondents would submit that the reasons for delay are not legal and proper.
4. Perused the reasons mentioned in the application. The possibility of getting disturbed due to losing the job, cannot be ruled out. It would be better to decide the application on merit.

5. Since the order challenged before this Court was *ex-parte*, this Court has already considered the grounds for delay and his absence in the proceedings. The Court is of the view that an opportunity needs to be granted to the applicant/husband to contest the petition on merit. However, certain conditions may be imposed. Hence, the order:-

- i) Application No.2111 of 2023 is allowed.
- ii) The delay caused in preferring the revision application stands condoned.
- iii) Registry is directed to register the revision application.
- iv) After registration of the revision application, issue notice to the respondents.
- v) Mr. Narwade, the learned counsel waives service of notice for respondents.
- vi) Revision application is allowed.
- vii) The judgment and order passed in Petition No. E-180 of 2018 dated 19.12.2019 by the learned Judge, Family Court, Ahmednagar, is quashed and set aside.
- viii) Respondents No.1 and 2/the wife and child would be entitled to withdraw the amount deposited in the proceedings.
- ix) Till the conclusion of the petition on merit, the applicant/husband shall continue to pay Rs.10,000/- (Rs.Ten Thousand) per month to the respondents/wife and child.

- x) Both parties to appear before the Court of the learned Judge, Family Court, Ahmednagar, on 25.08.2023.
- xi) Applicant shall file his written statement on 25.08.2023 or within two weeks thereafter. Both parties will be at the liberty to lead their evidence.
- xii) The learned Judge, Family Court, Ahmednagar, is directed to decide the application on merit within six months from 25.08.2023.
- xiii) It is made clear that the learned Judge, Family Court, Ahmednagar should not get influenced by this order while deciding the application on merit, particularly as regards the quantum of maintenance to be granted to the wife and the child. The application shall be decided afresh exclusively on merit appreciating the evidence led by the parties.

**(S. G. MEHARE)
JUDGE**

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