

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

CRIMINAL REVISION APPLICATION NO.218 OF 2022

Shrimant Shriang Gund,
Age : 37 Years, Occ. Agriculture,
R/o. Chincholi (B),
Taluka and District Latur

... Applicant
(Original Respondent)

VERSUS

1. Rita Shrimant Gund,
Age : 31 Years, Occ. House wife.
 2. Sarthaki d/o Shrimant Gund,
Age : 11 Years, Occ. Education
Both Resident of Avanti Nagar, New
Barshi Road, Latur.
Respondent No.2 under guardian
of Respondent No.1.
- .. Respondent
(Original Applicants)

...
Advocate for Applicant : Mr. R.R. Deshmukh h/f Mr. D.A. Madake
Advocate for Respondent Nos. 1 and 2 : Mr. V.V . Bhavthankar
....

CORAM : S. G. MEHARE, J.

DATE : 23.06.2023

ORAL ORDER :

1. Heard the learned counsel for the applicant and the learned counsel for the respondents.
2. The applicant has impugned the order of granting maintenance to respondent No.2 in Petition No. E-12 of 2017 by the learned Judge, Family Court, Latur, dated 05.05.2018.

3. The learned counsel for the applicant would submit that the respondent did not prove that the applicant had sufficient source of income to pay maintenance of Rs. 8,000/- per month. The applicant has only five acres of the agricultural land and very limited income. He has to maintain his mentally retarded sister and her children. The grocery shop was in the name of his mother. The plot at Latur was also in the name of his mother. He is residing separate from his mother, so he has source of income only from the agricultural land. The land is not irrigated. The learned Judge did not consider this aspect. The learned Judge also ignored the fact that the wife of the applicant has sufficient income and had equal responsibility to maintain the child. The order granting maintenance is exorbitant, against the facts and evidence available on record. Therefore, he prayed that judgment passed by learned Juedge, Family Court, Latur be quashed and set aside.

4. Per contra, the learned counsel for the respondents would submit that the father of the applicant died long back. The grocery shop was in his father's name. However, to avoid the liability, the shop was shown in the name of his mother. In fact, the applicant runs the shop and earns good income. He resides with his mother. The mother has no source of income, but the property was nominally purchased in

her name. The applicant has income from the grocery shop and the agricultural field. Considering the inflation of the day and appreciating the evidence, the learned Judge has correctly quantified the maintenance of Rs. 8,000/- per month. He prayed to dismiss the petition.

5. Perused the impugned judgment and order and reasoning thereof. The respondents had proved that there was grocery shop in the name of the applicant. Initially, it was standing in the name of his father and then it was shown in the name of his mother. In rebuttal, the applicant did not prove that he never run the grocery shop. He barely admitted that he has 2.5 Hecter of agricultural land. Legally he has no responsibility to maintain his sister and her children. However, morally that may be possible in our society. Considering the responsibility of his sister, he may have to spent money over her and her children. It was grocery shop in a small village, so it may be presumed that it would not fetch heavy profit. There was no evidence to believe that the applicant was residing separately from his mother.

6. The fact that the mother of the respondent No.2 was also in service at the time of filing the application cannot be ignored. She was able to provide the financial assistance to the respondent No.2/daughter. However, by passage of time the expenses of

respondent No.2 must have increased. The standard of living is one of the factors to be considered while quantifying the maintenance. The applicant appears from a middle class family. Therefore, the maintenance of Rs.8,000/- per month appears unreasonable. However, growing needs of the respondent No.2 is also important factor to be considered. Considering the standard of living, town in which they are residing and the income of the applicant, the Court is of the view that the monthly maintenance of Rs. 7,000/- per month is just and proper. The application, therefore, is liable to be partly allowed by modifying the quantum of maintenance. Hence, the following order :-

ORDER

- (i) The application is partly allowed.
- (ii) The order of learned Judge, Family Court Latur in petition E-No. 12 of 2017, dated 5.5.2018, is modified as under :-
 - (a) The applicant shall pay the maintenance of Rs. 7,000/- per month from 5.5.2018 to the respondent No.2/daughter.
- (iii) The amount already paid by the applicant be adjusted for future maintenance.
- (iv) Record and proceeding be returned to the learned Judge, Family Court, Latur.

(S. G. MEHARE)
JUDGE