Uday S. Jagtap

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15754 OF 2022

Vishal Lilaram Akatrai
Age 32 years, Occ. Business
Residing at Flat No.202, Green
Society, Wanawadi, Pune – 411040 .. Petitioner

Vs.

Hanishka Vishal Akatrai
Age: 29 years, Occ. Housewife
Residing at: C/o Mahendra
Mulchandani, PWD, Block 23/6,
Near Durga Mata Mandir,
Pimpri, Pune – 411 017 .. Respondent

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Mr. Yuvraj Narvankar for the petitioner
Ms. Gifty George for the respondent

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CORAM : PRITHVIRAJ K. CHAVAN, J.

RESERVED ON : 19th APRIL, 2023
PRONOUNCED ON : 27th APRIL, 2023

ORDER :-

1. Challenge in this petition is to the order dated 12th October, 2022 passed by the Family Court, Pune partly allowing the application of the respondent-wife granting interim maintenance at Rs.25,000/- per month from the date of filing of the application.

2. Heard learned Counsel for the petitioner and the respondent.

3. At the outset, learned Counsel for the petitioner-husband has invited my attention as to how the impugned order has been passed by the Court in utter ignorance of the ratio laid down by the Supreme Court in the case of ***Rajnesh Vs. Neha & Anr. (2021) 2 SCC 324***. It is the contention of the learned Counsel for the petitioner that the learned Judge has deliberately turned a Nelson eye to the glaring aspects, in the sense false information submitted by the respondent-wife in her affidavit (Exh.E) of disclosure of assets and liabilities.

4. Paragraph I of the affidavit is extracted below, which reads thus :-

> **"I – Self-employed persons / Professionals / Business Persons / Entrepreneur**
>
> 1. Brief description of the nature of business / profession / vocation / self-employed/work activity – NA
>
> 2. Whether the business/profession/self-employment is carried on as an individual, sole proprietorship concern, partnership concern, LLP, company or association of persons, HUF, joint family business or any

other form? Give particulars of Applicant's share in the partnership / business / professional association / self-employment. In case of a partnership, specify the share in the profit/losses of the partnership – NA.

3. Net income from the business/ profession/ partnership / self-employment – NA

4. Business / partnership / self-employment liabilities, if any, in case of such activity – NA

5. In the case of business of the company, provide brief details of the last audited balance sheet to indicate profit and loss of the company in which such party is in business in the company – NA

6. In case of a partnership firm, provide details of the filings of the last Income Tax Return of partnership – NA

7. In case of a self-employed individual, provide the filings of the last Income Tax Return from any such professional / business / vocational activity – NA."

5. It indicates that the respondent-wife has no business / profession / vocation / self-employed/ work activity. It also indicate that she has no income from any business / profession / self-employment/partnership firm etc. It is needless to go into the details, which are evident from the said extract. However, on page 169, Form No.26AS, which is the Annual Tax Statement under Section 203AA of the Income Tax Act, 1961 produced by

the petitioner before the trial Court reveals income of the respondent-wife as well as her bank accounts. At page nos. 310 to 321, the account statement of the respondent-wife with State Bank of India has been tendered indicating that on 7th March, 2022, she had withdrawn an amount of Rs.3,03,658/- from her account, just before passing the impugned order by the Court below. It is submitted by the learned Counsel for the petitioner that despite tendering these documents before the learned Judge, the same were not at all considered while passing the impugned order.

6. Learned Counsel for the petitioner has also invited my attention to page 191, which indicates the status of the respondent-wife as a Front Office Executive at Kala Builders. The summary, experience and education is extracted below :-

> "**Summary**
> Well, I have 3 years and 7 months experience in incorporate industry and other than that I posses comp skills: work, pp, excel, doc. Tally9 and diploma in OC. I have done events for good 4-5 years amongst wch was chosen to be best mc for pulling the crowd towards us
>
> **Experience**
> Kala builders
> Front Office Executive

January 2015 – May 2017 (2 years 5 months)

Education
Jhhs
MPM, Human Resources Management / Personnel Administration, General (2012-2014)"

7. It is the contention of the learned Counsel for the petitioner that the respondent has furnished false information in the affidavit of assets and liabilities and had not approached the Family Court with clean hands. It is also submitted that the respondent has played fraud upon the Court by filing false affidavit of assets and liability and, therefore, she is liable for action of forgery.

8. On the other hand, learned Counsel for the respondent-wife submitted that the trial Court has considered and referred all the documents and, therefore, it is needless to interfere in the impugned order.

9. Having considered the respective submissions at bar and after going through the record as well as the documents referred to hereinabove and in view of the ratio laid down by the Supreme Court in the case of ***Rajnesh Vs. Neha & Anr. (Supra),*** the matter

needs to be remanded to the Family Court by quashing the impugned order.

10. The impugned order is quashed and set aside. The matter is remanded back to the Family Court No.4, Pune.

11. The parties shall appear before the trial Court on 5th June, 2023.

12. Learned Judge shall give due opportunities to the respective parties and after considering all the relevant aspects in light of the ratio laid down by the Supreme Court in case of ***Rajnesh Vs. Neha & Anr. (Supra),*** shall pass a reasoned order on an application moved by the respondent-wife, within four weeks.

13. Petition stands disposed of in the aforesaid terms with no order as to costs.

(PRITHVIRAJ K. CHAVAN, J.)