



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL REVISION APPLICATION NO. 177 OF 2023

(Vinod s/o Subhash Thaokar Vs. Sau. Pranali w/o Vinod Thaokar)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri K.S. Motwani, Counsel for the applicant.

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CORAM : ANIL L. PANSARE, J.
DECEMBER 7, 2023.

The applicant has questioned the legality, correctness and propriety of the judgment and order dated 10/2/2023 passed by the learned Judge, Family Court, Bhandara in petition no. E-5/2022 whereby the Family Court directed the applicant – husband to pay monthly maintenance @ Rs.7,500/- to the non-applicant – wife in her application filed under Section 125 of the Code of Criminal Procedure, 1973.

2] I have heard the learned Counsel for the applicant and with his assistance, I have gone through the material placed on record. It appears that the non-applicant entered the witness box and led evidence in support of her case. The applicant's Counsel was absent and therefore did not cross-examine the non-applicant. The Family Court therefore took into account the unchallenged testimony of the non-applicant. No fault can be found in the said approach as the same is in accordance with the provisions of the Indian Evidence Act, 1872.

3] The non-applicant in her evidence has stated that the applicant projected himself to be a wealthy businessman and performed marriage, however, later on, she came to know that the applicant is earning only Rs.25,000/- per month. This part of evidence remained unchallenged.

4] That apart, the Family Court has considered the statement of assets and liabilities put forth by the applicant, who appears to have concealed true status. He has mentioned in his affidavit of statement of assets and liabilities that he is earning an amount of Rs.15,000/- approximately per month. He has in the column of liabilities mentioned various amounts, which if calculated, would be in excess of his income. The Family Court therefore suspected the correctness of the statement made in the affidavit of assets and liabilities. This approach can also be not faulted with for the simple reason that the applicant ought to have explained the source to incur additional expenses.

5] The further evidence may also be relevant. The applicant in his affidavit of statement of assets has placed on record a copy of the Gumasta Certificate which does not disclose the name of the organization run by the applicant, however, it discloses that two persons were working in his organization and the said business was being conducted at Pimpri Chinchvad (Corporation), Pune. The nature of business is of supplying internet facilities. The Family Court has noted that the applicant has provided employment to two persons and is running

business in a developed area and therefore cannot be said to be earning income @ Rs.13,000/- to 14,000/- per month which even a laborer would earn. This statement of assets and liabilities coupled with the absence of the applicant's Advocate to cross-examine the non-applicant resulted into drawing an adverse inference against the applicant.

6] Put all together, it appears that the applicant is involved in business and has employed two persons. He failed to cross-examine the non-applicant. In the circumstances, the inference drawn by the Family Court, which is in accordance with the provisions of law, cannot be faulted with.

7] I am therefore not inclined to interfere with the judgment in revisional jurisdiction. The revision is accordingly dismissed.

(ANIL L. PANSARE, J.)

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