



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

Criminal Revision Application No. 202 of 2023

Mr. Ram S/o. Vijay Kukde
Aged About 37 yrs, Occ:-Pvt. Edu. 10th
R/o opp. Buddha Guard,
Khalasi Line, PK. Salve Marg
Mohan Nagar, Nagpur Pin- 440001
Mo. No. 98906 80489

... Applicant

- Versus -

Sneha Ram Kukde
Aged about:-30 Yrs, Occ: Pvt. Edu. 12th
D/ o- Bhimrao Karwade
Math Mohalla, Ramakant Road
Indora, Nagpur -440017
Mo. No. 76204 35618.

**... Non-applicant/
Respondent**

Mr. S. T. Chavhan, Advocate for the applicant
None for the non-applicant/respondent

CORAM : ANIL L. PANSARE, J.

Date of reserving judgment : 12-10-2023

Date of pronouncing judgment : 13-10-2023

JUDGMENT

Heard the learned counsel appearing for the applicant.

None appeared for the non-applicant.

2. Rule. Rule made returnable forthwith.

3. The legality and correctness of the order dated 25-7-2023 passed by the learned Judge, Family Court No. 1, Nagpur in Petition E-88/2017 has been questioned by the applicant-husband.

4. Having heard learned counsel for the applicant and having gone through the record, it appears that the non-applicant/wife had filed an application under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Code') against the applicant – husband.

5. The wife examined herself and one independent witness in support of her claim. The husband has filed affidavit of chief-examination vide Exhibit 40. The said evidence has been discarded by the Family Court vide order dated 30-12-2022. Nothing has been argued against this order. The husband has, thus, not lead evidence in support of his defence.

6. The wife claimed that the husband is involved in the business and has ancestral property. He is earning Rs. 50,000/- per month. The respondent has through reply submitted that he is working as security guard and earning Rs. 5,000/- per month. The wife's evidence as regards earning of husband remained unchallenged because the husband failed to cross-examine the wife.

7. The learned Family Court has, however, noted that the wife has not produced any cogent evidence in support of her assertion that the husband is involved in the business or has ancestral property or is earning Rs. 50,000/- per month. Accordingly, the wife's claim of husband earning Rs. 50,000/- per month has been not accepted.

8. The husband's averment through written notes of argument that he is working as Security Guard and earning Rs. 5,000/- per month has been also not believed, firstly, because he has not adduced evidence and secondly, on the ground that ordinary unskilled labour is earning Rs. 400/- to Rs. 500/- per day and, therefore, can easily earn Rs. 12,000/- per month. Accordingly the income of husband has been assessed at Rs. 12,000/- per month.

9. On the point of refusal to maintain wife, learned Family Court has relied upon the evidence of wife as also the second witness. The wife has deposed that since the beginning of marriage, the husband had suspected her character. She was ill-treated and was compelled to leave the house which she was carrying three months pregnancy. She has, thus, deposed in tune with her application. As stated earlier, she was not cross-examined. In addition, P.W. 2, who is associated with Akhil Bhartiya Janwadi Mahila Sanghatana, Nagpur, has deposed that in the year 2016, the wife has approached her organization for protecting

her matrimonial life. The witness made an attempt to speak to husband but he abused her in filthy language. She also deposed that, before the police officials, she noticed that husband was rude and firm on his decision of not wanting to cohabit with wife. This witness has been cross-examined at length but nothing material has been brought on record.

10. Further, it appears from the record that the husband had filed petition seeking divorce from the wife. The petition, however, has been dismissed.

11. Considering the above evidence, the Family Court has arrived at an inference that the husband has neglected and refused to maintain his wife as also the child. Accordingly, the Family Court has directed husband to pay maintenance at the rate of Rs. 2,000/- per month each to wife and child for the period from the date of filing the application till 18-2-2017 and thereafter Rs. 3,000/- per month each.

12. Learned counsel for the applicant/husband, instead of pointing out the error or illegality in the order, has blamed the Family Court of not deciding the application filed by the husband under Section 340 of the Code before passing the judgment. This argument is not supported by any material except the bare words. The husband has

not placed on record the application that was allegedly filed by him under Section 340 of the Code nor is there any mention in written notes of arguments filed by the husband before the Family Court.

13. The counsel for husband has further blamed Family Court of not considering his case and arguments. I have gone through the written arguments. The husband has denied his paternity of the child and has blamed his wife of conceiving the child at the hands of her uncle (*mausa*). While describing his wife, the husband says behind the beautiful face is hidden the terrible witch. Thus unnecessary and irrelevant statements have been made in the written arguments.

14. Such argument is not worth of consideration and, therefore, rightly rejected by the Family Court.

15. Another limb of the argument was that the wife herself has deserted the husband and, therefore, she is not entitled to maintenance under Section 125(4) of the Code.

16. This submission is devoid of merit in as much as the Family Court has held that the husband has neglected and refused to maintain his wife. This finding has been rendered after taking note of the fact that wife's evidence was unchallenged, which was supported by the

second witness examined by wife coupled with the fact that the husband had filed petition for divorce, but failed.

17. Put all together the findings of the Family Court are consistent with the material placed before it. The applicant failed to show that the Family Court has committed any illegality or perversity in granting maintenance. There is no merit in the revision. No interference is, therefore, called for in the revisional jurisdiction. Revision is dismissed.

(Anil L. Pansare, J.)

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