



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

CRIMINAL REVISION APPLICATION NO. 5 OF 2024

DATTAPRASAD JAINARAYAN DARGAD
VERSUS
KIRAN W/O DATTAPRASAD DARGAD AND ANOTHER

...
Advocate for Applicant : Mr. Krushna S. Solanke
Advocate for Respondents : Mr. P. B. Jadhav, Ms. Priyanka P. Shinde
...

CORAM : S. G. MEHARE, J.

DATE : 17-10-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned counsel for the respondents.
2. The applicant has impugned the order of the learned Judge, Family Court, Parbhani, in P.E.No.92 of 2022, dated 20.11.2023, granting interim maintenance to the respondents without application.
3. The learned counsel for the applicant submits that he had applied for re-calling "no cross-order". The learned Judge, Family Court passed an order to pay the interim maintenance without any application and evidence. The case was fixed for cross-examination of the respondents.
4. The learned counsel for the respondents submits that since the proceeding is stayed, the respondents did not get a single penny. However, he concedes that there was no application for interim maintenance.

5. For granting *interim* maintenance, there must be pleadings and proof of income source. The Court has to consider the ability of the husband to pay interim maintenance, after hearing respective parties. However, in this case, the learned Judge, Family Court has *suo moto* granted interim maintenance. There was no material before the Court to determine the quantum of the interim maintenance. The impugned order is without pleading and giving an opportunity of hearing to the petitioner/husband. Hence, it is liable to be quashed and set aside. Hence, the order:-

ORDER

- i) The criminal revision application is allowed.
- ii) The impugned order of the Judge, Family Court, Parbhani, passed in P.E.No.92 of 2022, dated 20.11.2023, stands quashed and set aside.
- iii) Both parties to contest the matter on merit before the trial Court.
- iv) Both parties to co-operate the trial Court and the trial Court may endeavour to dispose of petition at the earliest.

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