



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

CRIMINAL REVISION APPLICATION NO. 31 OF 2023

**SHAIKH MOHAMMAD IMRAN S/O SHAIKH CHAND
VERSUS
YASMIN NAZ W/O SHAIKH MOHAMMAD IMRAN AND ANOTHER**

...
Advocate for Applicant : Mr. N. E. Deshmukh
Advocate for Respondents : Mr. Naseem R. Shaikh
...

CORAM : S. G. MEHARE, J.

DATE : 10-06-2024

PER COURT:-

1. Heard the learned counsel for the petitioner.
2. The petitioner has impugned the judgment and order of the learned Judge, Family Court, Jalgaon, passed in Petition E.No.88 of 2019, dated 01.12.2022, granting maintenance to the respondents.
3. The facts of the case reveal that the respondents were driven away from the matrimonial house. The respondent/wife has alleged against the petitioner/husband that she was ill-treated for not fulfilling the demand of Rs.5,00,000/- to purchase a plot and construction of the house as well as delivery of a female child. The matter went to the Women Redressal Forum, Jalgaon. A compromise took place between them. The petitioner assured her

good behaviour, but did not keep his words. The petitioner and his family members were insisting her for divorce as he wanted to marry another girl. Further, the facts of the case were that even after the settlement, they could not lead their matrimonial life happily. Initially, the application for grant of maintenance under Section 125 of the Code of Criminal Procedure was rejected only on the ground that she is already receiving maintenance granted by the learned Magistrate under the Protection of Women from Domestic Violence Act, 2005. This Court remitted the matter back to the learned Judge, Family Court, Jalgaon with a direction to decide the matter afresh.

4. Learned counsel for the petitioner submits that the Court did not give an opportunity of hearing and advance the arguments and directly decided the application without hearing. He also submits that the evidence has not been correctly appreciated. The subsequent development in this matter is that due to *Schizophrenia* the applicant did not attend the work. Therefore, he was getting salary only Rs.3,000/- per month. He submits that the petitioner has no source of income, he never denied to maintain and cohabit with respondents. The impugned order is illegal and against the law.

5. Per contra, the learned counsel for the respondent/wife and

daughter submits that the learned Judge, Family Court has correctly appreciated the evidence. It has been established that the petitioner has refused and neglected to maintain the respondents. The facts of Schizophrenia and lessening income were not before the Judge, Family Court. These are the subsequent facts. The petitioner is serving in railway administration department and getting salary of Rs.28,000/- per month.

6. Perused the impugned judgment and order.

7. The impugned order reveals that the learned Judge, Family Court has evaluated the evidence relevant to the allegations. It appears that each and every fact has been appreciated. At the relevant time, the petitioner was in employment and earning Rs.28,000/- per month.

8. The petitioner did not avail the opportunity to advance the oral arguments before the Court. However, the learned Judge, Family Court in the exercise of his power and on appreciating the facts and evidence, and concluded that the petitioner had refused to maintain the respondents, and he failed to prove that the respondents had deliberately left his company. The material placed on record was sufficient to believe the respondents.

9. Considering the income, the learned Judge, Family Court

has correctly determined the quantum. There is no merit in the petition. The fact that Schizophrenia caused his income and making him unable to pay the separate maintenance were not before the Court. For this purpose a legal remedy is available. The impugned order is free from infirmity and does not warrant interference.

10. For the reasons mentioned above, the revision application stands dismissed. No order as to costs.

(S. G. MEHARE)
JUDGE

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