



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1021 CRIMINAL WRIT PETITION NO. 213 OF 2023

Sayyed Issak S/o. Sayyed Shabbir

VERSUS

Rajiya Begum W/o. Sayyed Issak

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Advocate for the Petitioner : Mr. Shivraj B. Kadu

Advocate for Respondent : Ms. Jayashree P. Reddy (appointed)

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CORAM : SHIVKUMAR DIGE, J.

DATED : 13th AUGUST, 2024.

PER COURT :-

1. By this petition, the petitioner has challenged the order dated 6.10.2021 passed by the Principal Judge, Family Court, Aurangabad, in Criminal Misc. Application No. 10 of 2019. By the said order, the learned Judge has enhanced the maintenance amount of the respondent wife.

2. It is the contention of learned counsel for the petitioner that the respondent had filed an application for enhancement of maintenance amount before the learned Judge, Family Court, Aurangabad. The learned Judge has enhanced the maintenance amount of Rs.5000/- p.m. without hearing the petitioner. Learned counsel further submitted that the petitioner has no capacity to pay the said amount. The respondent is not entitled for enhanced amount but these facts

are not considered by the learned Judge of the Family Court. Hence, requested to allow the writ petition.

3. It is the contention of learned counsel for the respondent that the application for enhancement of maintenance amount was filed by the respondent. The petitioner was aware about filing of the said application. Sufficient opportunities were given to the petitioner to go on with the said application. In spite of the same, the petitioner remained absent. The learned Judge has considered the evidence produced on record by the respondent and on that basis the maintenance amount is enhanced. The learned Judge has passed the well reasoned order. Hence, no interference is required in it and requested to dismiss the writ petition.

4. I have heard both the learned counsel. Perused the impugned order. While enhancing the maintenance amount, the learned Judge has observed that initially the petitioner was paying maintenance amount of Rs.2000/- p.m. to the respondent. Considering the basic necessities of life of both parties, costs of living as of today, rise in prices of essential commodities and source of income of the petitioner, the learned Judge has enhanced the maintenance amount from Rs.2000/- to Rs.5000/- p.m. The learned Judge further observed that the petitioner had appeared in the said application,

then he participated in the counselling process and filed his say at Exh.9 but thereafter, remained absent. It appears from the order of the learned Judge that the petitioner was not heard while enhancing the maintenance amount. It is the contention of learned counsel for the petitioner that the petitioner will appear before the Family Court and will contest the said application without seeking adjournments. Considering these submissions of the learned counsel for the petitioner, I pass the following order:-

O R D E R

- I. The writ petition is partly allowed.
- II. The order dated 6.10.2021 passed by the learned Principal Judge, Family Court, Aurangabad in Criminal Misc. Application No. 10 of 2019 is quashed and set aside. The learned Judge, Family Court shall decide the Criminal application No. 10 of 2019 afresh by giving opportunity to both the parties.
- III. Till the decision of the said application, the petitioner shall pay maintenance to the respondent at the rate of Rs.5000/- regularly.

- IV. After deciding the said application, the petitioner shall pay maintenance as per the outcome of the said application.
 - V. The petitioner shall deposit the arrears of maintenance amount if any, within one month from today before the Family Court.
 - VI. Both the parties to appear before the Family Court on 02.09.2024.
5. Since Ms. Reddy, the learned counsel is appointed to represent respondent, her legal fees and expenses is quantified at Rs.10,000/- to be paid by the High Court Legal Services Sub Committee, Aurangabad.

(SHIVKUMAR DIGE, J.)

rlj/