



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

CRIMINAL REVISION APPLICATION NO. 28 OF 2020

Ranjana W/o. Baban More,
Age : 38 Years, Occu. : Household,
R/o. Sharda Nagar, Nanded,
Dist. Nanded.

... Applicant

Versus

Baban S/o. Ghanshyam More,
Age : 46 Years, Occu. : Agriculture,
R/o. Lahan, Tq. Ardhapur,
Dist. Nanded.

... Respondent

.....

Mr. Ankush N. Nagargoje, Advocate for the Applicant.
Mr. Devanand Y. Nandedkar, Advocate for the Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 11.12.2024

Pronounced on : 13.12.2024

JUDGMENT :

1. In above referred revision, there is challenge to judgment and order dated 15.11.2019, passed by learned Judge, Family Court, Nanded in Petition No.E-94/2018, refusing maintenance claim set up by present revisionist.

2. Learned counsel for revisionist submitted that, parties are husband and wife, who got married in May 2000 and they have three

children out of their wedlock. Because of suspicion on character and strained relations, they have separated and wife filed above proceedings, as she was unable to maintain herself and has no independent source of income. Moreover, husband also filed divorce proceedings. That, husband has irrigated land and he earns around Rupees seven to eight lakh per annum. As there was neglect to maintain revisionist, she set up claim of Rs.15,000/- per month.

3. Learned counsel further submitted that, learned trial court accepted the husband's reply that, revisionist has property in her name. That, she earns by way of rent income from said property. That, learned trial court has held that, wife has filed recovery of rent proceedings and solely on said ground, learned trial court has refused to grant maintenance. That, moreover, the so called property standing in her name is a mere tin shed.

4. Learned counsel further submitted that, suit for recovery of rent filed by revisionist is also dismissed and even husband withdrew divorce proceedings. Thus, learned counsel submits that, taking above circumstances into consideration, impugned judgment and order is required to be set aside, further directing husband to pay maintenance as claimed in the original petition.

5. The present application is opposed by the husband of revisionist, i.e. present respondent, who pointed out that there is documentary evidence which shows that there is house property standing in the name of revisionist. Gram Panchayat record carries entries to that effect. Extract of the same is also placed on record. Therefore, according to him, learned trial court has rightly held that wife has sufficient and independent source of income and thus, she was not entitled to any maintenance. Therefore, he supports impugned order and prays to dismiss the revision.

6. After considering submissions advanced by each side, it transpires that, parties are husband and wife and have three children. Wife seems to have set up claim that there was cruelty, ill-treatment and harassment to her. As her husband suspected her character, she was constrained to live separately. Though they have three children, they are looked after by husband. Wife set up a case that, husband has irrigated land and he earns Rs.7,00,000/- to Rs.8,00,000/- per annum from the same.

7. Husband seems to have placed on record the papers of RCS No.52/2019, instituted by wife against one Gangadhar Tungewar, seeking recovery of rent of Rs.75,000/-. Now, case is put forth that,

though there is house property, it is mere tin shed. However, learned counsel for respondent placed before this Court Nanuma-8 (extract of Gram Panchayat) and same is taken on record, which clearly shows that, house property No.956 is owned by Ranjana Baban More i.e. present revisionist and Gram Panchayat tax is also levied towards the same. Therefore, apparently it shows that wife has some source of income for her subsistence. It also transpires that, there are other proceedings under Protection of Women from Domestic Violence Act, 2005 and divorce proceedings between the parties. Petition No.E-94/2018 by invoking Section 125 of Cr.P.C. is apparently instituted in 2018 in spite of revisionist claiming to be married in 2000.

8. From the papers and impugned judgment, it transpires that husband instituted divorce proceedings in 2014. This goes to show that almost after a decade, above proceedings have been instituted, i.e. at belated stage. Only when husband placed papers of RCS No.52/2019, learned trial court realized that revisionist has independent source of income. Therefore, learned trial court observed in concluding para that, there was suppression of material by wife. Learned trial court has considered cases advanced by both sides and has rightly concluded that, though wife resides separately, she owns property and is receiving rent. Mere dismissal of recovery proceedings

would not be sufficient to hold that, she has no income at all. No patent infirmity brought to the notice of this Court so as to interfere. Hence, I proceed to pass following order.

ORDER

The criminal revision application is dismissed.

[ABHAY S. WAGHWASE, J.]

ASD