



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

CRIMINAL REVISION APPLICATION NO. 92 OF 2023

Nishikant S/o. Abhiman Kamble
Age: 32 years, Occu.: Nil (Unemployed),
R/o. Panchshil Nagar, Palwan Road,
Beed, Tal. & Beed.

....Applicant

Versus

Priya W/o. Nishikant Kamble
Age: 29 years, Occu.: Household,
R/o. Pimpalner,
Tal. & Dist.Beed.

.....Respondent

.....

Advocate for Applicant : Mr. Sushant Baburao Choudhari
Advocate for Respondent : Mr. Ankush Nivrutti Nagargoje

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 21 NOVEMBER, 2024

PRONOUNCED ON : 28 NOVEMBER, 2024

ORDER :

1. Revisionist husband moved instant revision questioning the order passed by the learned Judge, Family Court, Beed dated 01-03-2023 in Petition-E No.82 of 2021.

2. Learned Counsel for the applicant submitted that present revisionist and respondent are husband and wife, who got married in 2013. It is submitted that respondent wife for no reason and sufficient cause, left the company of husband and instituted proceedings seeking maintenance by invoking Section 125 of the

Code of Criminal Procedure (Cr.P.C.). It is submitted that applicant is unemployed. That he has already applied for divorce and also succeeded in obtaining decree. He pointed out that during pendency of appeal by wife, fresh proceedings by invoking Section 12 of the Protection of Women from Domestic Violence Act (the D.V. Act) were preferred before the learned Judicial Magistrate First Class, Beed and on 02-08-2022, learned trial Court granted maintenance to the tune of Rs.2,000/- per month. That revisionist preferred appeal against the same before learned District Court, Beed and the same is pending.

It is submitted that learned trial Court failed to consider judgment and order passed by learned Judge, Family Court, Beed on 30-03-2021 granting dissolution of marriage and also failed to consider that respondent wife having left company of revisionist without just and proper cause, was not entitled for any maintenance, however, learned Judge, Family Court, Beed by its order dated 01-03-2023, has awarded maintenance amount of Rs.7,000/- per month. That learned trial Court also failed to consider that applicant husband is merely 12th pass and on the other hand, respondent wife is M.A. B.Ed. That merely considering agriculture lands, above quantum is awarded i.e. in absence of any

evidence about income of revisionist. That he has his parents to take care of.

3. Learned Counsel for respondent pointed out that learned trial Court has correctly appreciated the oral and documentary evidence. That applicant has seven acres irrigated land. That there is sufficient agricultural income and therefore, applicant husband having failed to maintain wife, just and proper maintenance has been directed to be paid and he thereby prays not to interfere in the impugned order.

4. Heard both the sides. Perused the impugned judgment. In trial Court, present respondent has preferred proceedings by invoking Section 125 of the Code of Criminal Procedure alleging ill-treatment, mental and physical harassment and not permitting her to stay and therefore, initially after lodging complaint before Women Cell, she set up claim for maintenance disclosing acquisition and properties of husband. According to her, husband's yearly income is Rs.5,00,000/- to Rs.6,00,000/- from various sources including agriculture land.

5. Present revisionist caused appearance in the trial Court and resisted the maintenance claim setting up a case that he was initially employed on a contract basis. Said contract has come to an end and

as such he is virtually unemployed. He alleged desertion by wife without sufficient cause and refusing to come to cohabit and therefore, he initiating divorce proceeding.

6. Respondent wife seems to have adduced her own evidence and evidence of her father whereas revisionist husband examined himself vide affidavit exh.23 and also filed affidavit exh.20 of assets, income and liabilities. Learned Counsel for revisionist submitted that in the learned trial Court, he admitted about owning 2 acres agriculture land and not 7 acres land.

7. On re-appreciating the cases advanced by both of the sides in trial Court and also going through of observations of the trial Court in paragraph nos.14 and 15 of the impugned judgment, it transpires that revisionist failed to show his actual income and liabilities inspite of placing affidavit and his own evidence on record. Learned trial Court seems to have, therefore, considered the agriculture income as owning agriculture land has not been denied by revisionist husband. Learned trial Court has observed that his income from the agriculture land is required to be assessed on the basis of guess work and further held that probable monthly income from the said land would not be

less than Rs.5,000/- to Rs.7,000/-. It is further observed by the trial Court that probable monthly income of the revisionist would not be less than Rs.10,000/- to Rs.15,000/-.

8. At the time of initial stage, this Court by its order dated 19-04-2023, after hearing both sides, stayed the order passed by the learned Judge, Family Court, Beed dated 01-03-2023, and thought it fit to award maintenance of Rs.2,000/- per month, till further orders.

In previous proceedings filed under the D.V. Act, maintenance of Rs.2,000/- per month is already awarded by the learned Judicial Magistrate First Class, Beed. Therefore, the amount of Rs.2,000/- per month granted by this Court by its interim order dated 19-04-2023, as stated above, seems to be just and proper and in the considered opinion of this Court, should serve the purpose of both the parties. Consequently, interim order passed by this Court on 19-04-2023 is required to be made absolute and confirmed. Accordingly, I proceed to pass following order :

ORDER

I. Criminal Revision Application is hereby partly allowed.

II. The order dated 01-03-2023 passed by Judge, Family Court, Beed in Petition E-82 of 2021 is hereby modified to the extent of quantum of maintenance awarded vide clause (2) of the order impugned and the amount of maintenance is reduced as under:

“The applicant is directed to pay maintenance of Rs.2,000/- (Rupees Two Thousand only) per month to the respondent wife from the date of petition.”

III. The Criminal Revision Application is disposed of in above terms.

(ABHAY S. WAGHWASE)
JUDGE

SPT