



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

CRIMINAL REVISION APPLICATION NO. 194 OF 2024

Syed Imran Ali S/o Mohammad Ali,
Age : 35 years, Occu : Business,
R/o Wahed Colony No. 4, Roshan Gate,
Aurangabad, Tq. And Dist. Aurangabad Applicant

Versus

1. Nagma Yasmin W/o Syed Imran Ali,
Age : 33 years, Occu : Household,
2. Syed Salwa D/o Syed Imran Ali,
Age : 14 months old, under guardianship of above
Respondent No. 1 (Mother)
R/o : C/o Javed Khan Sardar Khan,
Sarfaraz Nagar, Parbhani Respondents
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Advocate for Applicant : Mr. Vijay P. Latange
Advocate for Respondents : Mr. Nilesh N. Bhagwat

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 21 NOVEMBER, 2024

PRONOUNCED ON : 25 NOVEMBER, 2024

ORDER :-

1. In this revision, original respondent – husband has taken exception to order dated 30.04.2024, passed by Family Court, Parbhani, in Petition-E No. 139 of 2022, partly allowing proceeding seeking maintenance under Section 125 of Code of Criminal

Procedure (for short, “Cr.PC.”).

2. Learned counsel for applicant pointed out that present revision applicant and respondent no. 1 are husband and wife and present respondent no. 2 is their daughter. It is submitted that, for no just and proper cause and reason, respondent no. 1 left the company of applicant alongwith daughter and instituted proceeding under Section 125 of Cr.PC. It is further submitted that learned Trial Court, firstly, failed to consider and appreciate that respondent no. 1 had herself left the company of applicant, even when he was ready and willing to take care and maintain her as well as their daughter. By levelling false allegations, respondent no. 1 instituted several proceedings.

3. Learned counsel for applicant further submitted that, respondent no. 1 was of quarrelsome nature and she instituted proceedings under Section 498A of Indian Penal Code and also under the provisions of Protection of Women from Domestic Violence Act, 2005. He further submitted that present applicant was merely working in the cloth shop owned by RW2 and was paid Rs. 300/- by way of daily wages. However, applicant averred that merely on the

claim of respondent-wife that, he owns other shops as well as cloth shop, exorbitant maintenance has been claimed. It is pointed out that merely on the basis of screenshots of online payment received on the mobile phone of applicant, impugned order has been passed. Thus, according to learned counsel for applicant, there is improper appreciation of evidence and hence, he prays for indulgence by allowing the present revision application.

4. Learned counsel for respondents pointed out that applicant is a businessman. There was physical and mental cruelty to the respondent and therefore, she was constrained to leave the company. As applicant was not maintaining respondent no.1 and their daughter, she was required to institute proceeding under Section 125 of Cr.P.C. Learned counsel for respondents further submitted that applicant owns several shops, which were rented out and moreover, he was having ready-made garment business in the name and style as 'Sky Touch Fashion'. From said business, he earns Rs.1,20,000/- per month. The said screenshots of online payments received on mobile owned by applicant are not denied and hence, learned counsel submits that impugned order cannot be faulted at and interfered with.

5. After considering the submissions of both sides and on going through the papers on record as well as impugned judgment, it seems that present parties are husband and wife and respondent no. 2 is their daughter. Due to matrimonial acrimony and discord, they seem to have parted and thereafter, present respondent wife instituted Petition-E No. 139 of 2022, setting up a claim of maintenance for herself as well as her daughter.

6. In support of claim of income, wife seems to have set up a case that applicant earns a handsome income to the tune of Rs.1,20,000/- per month from rents as well as ready-made garment business. Screenshots which were placed on record show that garment business is conducted and it is so evident from the papers placed on record. Learned Trial Court, therefore, considered that though there was no evidence regarding ownership of shops or earning rent from the said property, in cross-examination, present applicant did admit that mobile bearing No. 9890425420 is owned and used by him. Statement is made across bar by learned counsel for respondents that on said mobile of husband, online transactions are carried out. Other documents (Exh. 22, 33 and 34) pertain to the

said ready-made cloth business. Learned Trial Court also appears to have taken note of personal appearance of present applicant in the Court and has noted from his attire that he is a man of means. Even otherwise, learned Trial Court has merely granted maintenance to respondent No. 2 - child and not to wife. Therefore, considering the quantum required to maintain a child in current days, said amount seems to be just and appropriate i.e. for education and upbringings and it cannot be said to be excess or exorbitant. No case made out for interference. Hence, following order is passed:

ORDER

Criminal Revision Application is dismissed.

(ABHAY S. WAGHWASE)
JUDGE

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