



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 256 OF 2022

Ramesh S/o. Kautik Kamble,
Age : 63 years, Occu. : Retired,
R/o. Adjacent to Marimata Mandir,
Near Sushinala, Fashipool,
Dhule

... Applicant
(Orig. Respondent)

Versus

Mrs. Shobhabai W/o. Ramesh Kamble,
Age : 53 years, Occu. : Housewife,
R/o. At present Deshmukh Nagar, Near
Ambikamata Mandir, Fashipool,
Dhule.

... Respondent.
(Orig. Petitioner)

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Mr. Suniket Anil Kulkarni, Advocate for Applicant.
Mr. Kishorkumar B. Borde, Advocate for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 11th DECEMBER, 2024

PRONOUNCED ON : 18th DECEMBER, 2024

ORDER :

1. In instant revision, there is challenge to the judgment and order dated 18.06.2022 passed by learned Family Judge, Dhule, thereby granting maintenance to the tune of Rs.3,500/- in addition to the previously granted maintenance amount of Rs.2,500/- as well as order of enhancement passed on proceedings instituted under section 127 of Cr.P.C.

2. Learned counsel submitted that, revisionist and

respondent are married. That, respondent wife without sufficient cause, left the company of husband and went and set up claim for maintenance before learned Principal Judge, Family Court, Dhule. At that time, learned Family Court had initially granted maintenance Rs.2,500/-. Subsequently, respondent wife filed another proceeding under section 127 of Cr.P.C. praying for enhancement and without appreciating the case put-forth by husband i.e. present revisionist, learned trial court enhanced the amount to the tune of Rs.3,500/-. That, as such it is pointed out that, wife is now receiving Rs.6,000/- by way of maintenance. Learned counsel pointed out that, present revisionist, at that time was in service of Maharashtra State Road Transport Corporation. That, now he has retired and he does not get any pension, and therefore, he is finding it difficult to pay such huge maintenance apart from maintaining himself and his responsibilities. Hence, above order is sought to be either set aside or modified.

3. Learned counsel for respondent wife supported entitlement of wife to receive maintenance. It is submitted that, husband received amount of Rs. 21,00,000/- after retirement. He receives around Rs.20,000/- per month only towards interest and therefore, he is capable of paying maintenance as directed and enhanced by learned trial court.

4. Heard both sides. Perused the papers. It appears that, present respondent after desertion set up proceedings under section 125 of Cr.P.C. bearing No.191 of 2014 and succeeded in getting maintenance of Rs.2,500/-. Subsequently, she appears to have instituted proceedings under section 127 of Cr.P.C., thereby seeking enhancement in the year 2019 and the same appears to have been also allowed by learned trial court by awarding maintenance of Rs.3,500/-. Therefore, coupled with previous maintenance respondent wife is apparently receiving around Rs.6,000/- per month maintenance.

5. Now, case is put up by revisionist - husband that, he has retired and having served in MSRTC, does not get any pension. Consequently, taking such averment in the revision into consideration, when husband is already retired and does not receive any pensionary benefits, he must be facing difficulty in paying monthly maintenance awarded by trial court. However, it is not disputed that, on account of his retirement, he has received lumpsum payment about Rs.21,00,000/-. Submission made by learned counsel for respondent that above amount is kept in fixed deposit and husband receives around Rs.20,000/- interest per month, is not denied or refuted by husband. However, he too by virtue of retirement has to maintain himself and on oath it is stated that he

has health issues also. Therefore, maintenance amount awarded by way of enhancement is required to be reduced as wife does not seem to have any issues. Hence, revisionist succeeds and the quantum of maintenance is required to be reduced. Hence, I proceed to pass the following order :-

ORDER

(i) Criminal Revision Application is hereby partly allowed.

(ii) The order dated 18.06.2022 passed by learned Family Court, Dhule in Petition E-09 of 2019 is hereby modified. Instead of paying enhanced amount of Rs.3,500/-, husband to continue to pay enhanced amount of Rs.2,500/-only, along with previous maintenance of Rs.2,500/-, i.e. total amount of Rs.5,000/-.

(iii) Criminal Revision Application is disposed off in above terms.

(ABHAY S. WAGHWASE, J.)