



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 242 OF 2024

Tarun s/o Kewalkrushan Singla
Age: 40 years, Occu.: Service,
R/o.C-803, Blue Fortuna, Military Road,
Opp. Tanvi Supermarket, Marol,
Andheri (E), Mumbai – 400059.

....Applicant

Versus

1. Smt.Megha w/o Tarun Singla
Age: 35 years, Occu.: Business,
R/o. Dr.RP Road, Jalna,
Dist.Jalna.

2. Luvish s/o Tarun Singla
Since Minor represented
through mother namely
MeghaTarun Singla
R/o. Dr.RP Road, Jalna,
Dist.Jalna.

.....Respondents

.....
Advocate for Applicant : Ms.Pradnya Talekar h/f. Talekar and
Associates

Advocate for Respondents : Mr.Sushant V. Dixit

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 21 NOVEMBER, 2024

PRONOUNCED ON : 29 NOVEMBER, 2024

ORDER :

1. Revisionist, who is husband of respondent no.1, hereby takes

exception to judgment and order passed by learned Judge, Family Court, Jalna dated 29-07-2024 on application exh.132 in Petition No.E-221 of 2021.

2. It is pointed out that parties are husband and wife, who got married in 2018. It is further submitted that due to marital discord and acrimony, they have separated. It is pointed out that wife instituted above proceedings under Section 125 of the Code of Criminal Procedure, setting up a false case levelling baseless allegations, which were never demonstrated or substantiated. That respondent no.1 wife demanded exorbitant amount for maintenance i.e. to the tune of Rs.2,50,000/- per month. That learned trial Court erred in believing the contentions raised by respondent no.1 wife and accepting the same and further granting maintenance of Rs.40,000/- per month and Rs.30,000/- per month to respondent no.1 wife and respondent no.2, a minor respectively.

3. Ms.Pradnya Talekar, learned Counsel for the applicant would forcefully submit that learned trial Court at the outset failed to consider whether respondent no.1 wife was at all in need of financial support for maintenance. She submitted that only when wife is

unable to maintain herself, then provisions of Section 125 of the Code of Criminal Procedure (Cr.P.C.) can be invoked, but according to her, here wife was a law graduate and moreover, worked as a Teacher in a private School and had sufficient means to maintain herself. However, taking this Court through the observations of learned trial Court, more particularly, in paragraph nos.16, 19, 28 and 30, she emphasized that observations of the learned trial Court supports contentions raised by the revisionist, however, she submitted that while passing order of maintenance, the above case of husband has not been properly appreciated.

4. She further took this court through the salary certificate and pointed out that from the same it is reflected that there are several deductions from the gross salary of the applicant. That meager amount remains for himself as well as his old aged parents of whom he has liability to take care of. Consequently, learned Counsel submits that maintenance granted by the learned trial Court to the tune of Rs.70,000/- per month is excessive and exorbitant and hence, she prays to interfere in the impugned judgment and order.

5. Strongly opposing the above submissions, Mr.Dixit, learned

Counsel for the respondents submits that parties are residing separately. Learned Counsel submits that revisionist is working on a Managerial Executive post. That he also served abroad. That, he is not coming with clean hands and rather suppressing material facts. Learned Counsel pointed out that assertion that applicant has parents to take care of is patently false, because father of revisionist was a high ranking officer and as such his father and mother were never dependent on him. That learned trial Court correctly appreciated the available evidence and on case being made out for entitlement of suitable maintenance, same has been granted and hence, it is prayed that, there is no need to disturb the findings of the learned trial Court.

6. After giving thought to the above submissions and on going through the papers, it emerges that revisionist and respondent no.1 are husband and wife, who parted ways due to marital difference and discord. There is volley of allegations by present respondent no.1 and present revisionist against each other. However, at this juncture, in view of nature of proceedings, it is to be seen whether, maintenance granted by the learned Family Court is just and proper. Learned trial Court has appreciated cases advanced by both the sides.

As regards to qualification of respondent no.1 wife is concerned, she is said to have acquired law degree, but admittedly, material before trial Court was placed to show that she was serving as a School Teacher. Therefore, in the considered opinion of this Court, respondent no.1 wife does not have professional income of her own. There is no dispute that revisionist serves in Proctor and Gamble, a multinational company. What is placed on record does not seem to be salary certificate in proper format nor does it specify the actual post held by the revisionist. Be it so, the certificate, which is relied, is issued on 07-02-2023 and impugned order is passed on 29-07-2024. Several deductions are reflected in the certificate and out of total earning of Rs.5,43,817.41, deductions are shown to the tune of Rs.5,05,224.67 and take home salary is shown to be Rs.38,592.74.

7. Learned trial Court, in paragraph nos.43 and 44 of the judgment, after considering the mandate of Section 125(4) the Cr.P.C., held that respondent no.1 wife is proved to be a destitute and a vagrant and thereafter, considering the qualification of revisionist to be a Engineer as well as a Management Graduate, learned Family Court thought it fit to award maintenance to the tune of Rs.40,000/- and Rs.30,000/- to respondent no.1 wife and respondent no.2 son

respectively i.e. after considering Exhibit-80, which was salary certificate of revisionist for the month of January 2024. As stated above, salary certificate placed before this Court is of February, 2023. Therefore, revisionist could not make out a case that excess or exorbitant maintenance has been granted. It is fairly settled position that wife is entitled to the same living conditions in which she has lived before parting.

Learned Counsel for revisionist has placed on record judgment of Hon'ble Supreme Court in the case of *Chandrashekhar v. Swapnil and Another, (2021) 12 SCC 624* in support of her contention that statutory and mandatory deductions are not considered by learned trial Judge, but only gross salary is considered.

However, on visiting relied case, it transpires that the appellant therein was employee of the State Government. Here it is not so. Here revisionist is serving in a Multinational Company and as pointed out by learned Counsel for respondents that father of revisionist held high ranking position in the Government, aspect which is not denied or refuted, it can safely be presumed that neither his father nor other members of family are depending on him.

8. Resultantly, no case being made out for interference, revision application filed by revisionist - husband deserves to be dismissed.

Hence, following order :

ORDER

Criminal Revision Application No.242 of 2024 stands dismissed.

(ABHAY S. WAGHWASE)
JUDGE

SPT