



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 253 OF 2024

Asma Suleman Alaseri,
Age : 35 years, Occu. : Household,
At present R/o. Mangalwara,
Near Shahi Masjid,
Parbhani, Tq. & Dist. Parbhani.

... Applicant
(Orig. Applicant)

Versus

Suleman Abdullah Alaseri,
Age : 30 years, Occu. : Business,
R/o. Kat Kat Gate, Aurangabad,
Tq. & Dist. Aurangabad.

... Respondent.

.....
Mr. Syed Azizoddin, Advocate for Applicant.
Mrs. Ansari Asfia Nuzhat, Advocate for Respondent.
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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 14 DECEMBER 2024
PRONOUNCED ON : 19 DECEMBER 2024

ORDER :

1. Aggrieved by the judgment and order of rejection of maintenance claim sought under section 125 of Cr.P.C. dated 10.07.2024, original claimant wife has preferred instant revision.

2. Learned counsel for revision applicant would point out that, parties are husband and wife, who got married on 29.09.2021. That, barely after few days of marriage, there was maltreatment, taunting and harassment. That, she was beaten on 15.12.2021 by

respondent husband and finally driven out from the house on same day and since then she was put up with parents.

3. Learned counsel further pointed out that, she has no means or source to maintain herself. That, since being driven out, she is finding it difficult to sustain herself and therefore she was constrained to institute proceeding under section 125 of Cr.P.C. seeking maintenance of Rs.15,000/- per month as respondent husband earned Rs.70,000/- by running shop of selling utensils. That, there are properties, which are fetching income from rent and hence she sought Rs.15,000/- maintenance. Learned counsel pointed out that, in spite of claim being substantiated, learned trial court rejected her claim, holding that, she herself left the company of her husband and had insisted for separate stay and as such not entitled for any maintenance. According to learned counsel, such findings are erroneous and without any foundation. That, learned trial court failed to appreciate that there was ill treatment, demand and harassment and finally driven out of the house. That, she was destitute and had no source of income for survival, but such aspect has not been considered by learned trial Judge. For all above reasons, learned counsel prays that revision be allowed by setting aside the impugned order.

4. Resisting the above submissions, learned counsel for husband would point out that, wife revisionist left the company of husband without just and sufficient cause. That, she was keen in residing separately, and therefore, she on her own without just and proper reasons deserted husband and in spite of his attempts to fetch her back, she did not return. Rather she set up false claim without adducing any evidence and levelling false allegation of maltreatment. That, learned trial court has meticulously considered the claim and evidence adduced by her and has also correctly appreciated the say of respondent husband and has rightly come to the conclusion that case has not been made out for maintenance. Hence, learned counsel prays to dismiss the revision for want of merits.

5. After appreciating the above oral submissions and on going through the papers, it transpires that, revisionist is married to respondent in September 2021. Her native seems to be Parbhani and she married respondent, who is from Aurangabad. She has lodged report alleging physical and mental cruelty regarding demand of Rs.5,00,000/- resulting into crime for the offence punishable under sections 498-A, 323, 504, 506 of IPC was registered. Thereafter, she has instituted above proceeding under section 125 of Cr.P.C. alleging negligence in maintaining her and sought maintenance of Rs.15,000/- per month. The basis for such quantum set up is that

husband runs shop of selling utensils and he has properties fetching rents and that his brothers and parents earn independently from various sources.

6. Her above claim is resisted by respondent husband vide say (Exh.26) and setting up a case that, barely after few days of marriage his wife was keen in residing separately from in-laws. She voluntarily left his company and levelled false allegations and is now setting up maintenance by quoting exorbitant income.

7. Learned trial court has rejected the application. On going through the judgment, more particularly, paragraph nos. 6, 7 and 8 of the impugned judgment, learned trial court has reached to a concrete finding that she cohabited barely for 15 days after marriage and thereafter directly approached Women Grievance Redressal Forum. In her deposition, before learned Magistrate, she has admitted that, respondent husband was ready to fetch her back for cohabitation, but wife insisted for separate residence. Learned trial court also found that as regards to alleged income of husband, no concrete and reliable evidence has been led. On reaching to such findings, learned trial Judge held that, she is not entitled for interim maintenance.

8. Before this court in revision, how learned trial court erred and what is the infirmity in appreciation of available evidence, is not specifically pointed out. Therefore, when no case is made out for any interference, revision is required to be dismissed. Hence, the following order is passed :-

ORDER

The Criminal Revision Application stands dismissed.

(ABHAY S. WAGHWASE, J.)