



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

CRIMINAL REVISION APPLICATION NO. 336 OF 2023

Harshal @ Sagar Jaywant Pawar
Age: 30 years, Occu.: Business,
R/o. Audumbar Colony, Dondaicha,
Tal.Shindkheda, Dist.Dhule.

....Applicant
(Orig. Respondent)

Versus

1] Mrs.Devyani @ Nilima Harshal Pawar
Age : 26 years, Occu.: Housewife.

2] Ku. Siddhika Harshal Pawar
Through her Guardian mother namely
Mrs.Devyani @ Nilima Harshal Pawar
Age : 01 year, Occu.: Nil,
R/o. C/o. Kishor Shivdas Salunkhe,
At present Sainik Colony, Nagaonbari,
Deopur, Dhule, Tal. & Dist.Dhule.

.....Respondent

.....
Advocate for Applicant : Ms.Rutuja L. Jakhade
Advocate for Respondents : Mr. Pramod C. Mayure

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 21 NOVEMBER, 2024

ORDER :

1. Instant revision application arises out of order passed by learned Judge, Family Court, Dhule dated 23-05-2023 in Petition-E No.153 of 2022.

2. Learned Counsel for the applicant submitted that respondent no.1 instituted proceedings under Section 125 of the Code of Criminal Procedure (the Cr.P.C.) seeking maintenance. That learned trial Court merely considered contentions and evidence of respondent no.1. That without affording opportunity to adduce evidence, *exparte* order has been passed granting maintenance. That learned trial Court has also not considered whether there was any negligence to maintain. Therefore, in absence of crucial findings and in absence of say and evidence on behalf of revisionist, impugned order has been passed. Hence, prayers are made for remanding the matter to the trial Court for adducing the evidence in the interest of fair opportunity and fair trial.

3. Learned Counsel for respondents pointed out that inspite of notice, revisionist is failed to appear and contest the matter. Inspite of repeated chances, opportunity was not availed and therefore, according to him, learned trial Court has made no error in passing *exparte* judgment and order as the matter was of 2022.

4. After considering the submissions and papers placed before this Court, it transpires that present respondent no.1 and present

revisionist got married in 2020. It also appears that out of their wedlock, they have a daughter. Due to subsequent matrimonial discord and acrimony, they both seem to have separated. Respondent no.1 appears to have instituted Petition-E No.153 of 2022 under Section 125 of the Cr.P.C. seeking maintenance. Learned trial Court seems to have issued notice to present revisionist, but as he failed to appear, on 18-10-2022 matter was proceeded *exparte* granting maintenance of Rs.6,000/- per month.

5. Admittedly, above order is *exparte*. In the interest of justice and to afford opportunity to contest, revisionist deserves a chance. Therefore, matter is required to be remanded back to the trial Court for fresh consideration i.e. by giving opportunity to revisionist to adduce evidence and contest the proceedings. Accordingly, I proceed to pass following order.

ORDER

(i) Matter is remanded back to the learned Judge, Family Court, Dhule, who shall make every endeavour to hear both the sides and dispose of the proceedings as early as possible and preferably within a period of four months from the date of receipt of this order.

(ii) Parties to appear before the learned Judge, Family Court, Dhule on 02-12-2024.

(iii) Both the parties to co-operate the trial Court.

(iv) Criminal Revision Application No.336 of 2023 is disposed of in the above terms.

(ABHAY S. WAGHWASE)
JUDGE