



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 CRIMINAL REVISION APPLICATION NO. 25 OF 2024

Subodh Pradip Mandge

VERSUS

The State of Maharashtra and others

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Advocate for Applicant : Mr. Dhupe Anil H.

APP for Respondent No.1: Mr. Mukesh K. Goyanka

Advocate for Respondent Nos. 2 and 3: Ms. Ashlesha Kulkarni
(appointed)

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 16th FEBRUARY, 2024.

PER COURT :-

1. By consent of the parties, heard finally at admission stage.
2. This revision application is directed against the interim order of maintenance dated 18.10.2022, passed by the learned Judicial Magistrate, First Class, Jalgaon (Court No.5) below Exh.5 in P.W.D.V.A. No. 192 of 2021. The learned J.M.F.C. Jalgaon partly allowed the application and directed to pay interim monthly maintenance of Rs.4000/- to the applicant wife and Rs.2000/- to her son under Section 20 of the Protection of Women from Domestic Violence Act, 2005. The costs of Rs.5000/- is also awarded. The said order was challenged before the learned Additional Sessions Judge, Jalgaon in criminal appeal No. 144 of 2022, which was dismissed by a judgment and order dated 28.07.2023.

3. This criminal revision application is preferred on the following grounds of objections:-

- I. The trial court and the appellate court ought to have considered that the P.W.D.V.A. application has been filed with utter ill motive to harass the husband and his relatives. Moreover, the impugned order passed in favour of respondent No. 02 and 03 awarding interim maintenance and litigation expenses came to be passed relying only upon documents produced by wife without taking into account the explanation given by the husband. Hence, the impugned orders and judgment are liable to be set aside.
- II. Both the lower courts ought to have considered that, the petitioner has filed Petition A-255 of 2021 before the learned Family Court at Aurangabad under Section 13(1) (ia) of Hindu Marriage Act. The respondents have filed transfer petition bearing Misc. Civil Application No. 285 of 2021 before this Court and same is pending for adjudication.
- III. Both the lower courts ought to have considered that respondent relied upon old salary slip of Unnati Vehicles Pvt. Limited for the month of December, 2018 and her contention is that the petitioner is working with Pagariya Auto, Aurangabad which shows controversy. Hence, without proper finding as to the

income of the husband/petitioner and further without considering the financial requirement of wife, the courts below have awarded an interim maintenance to respondent Nos. 2 and 3. Hence, it is liable to be set aside.

4. Learned advocate for the applicant submitted that the impugned judgment and order are not legal and correct. The applicant has limited source of income of Rs.13,000/- to Rs.14,000/-. Respondent No.1 is running a private class and she has source of income. The learned trial court and appellate court did not consider this important aspect. The applicant is suffering from mental illness. He requires some more amounts for treatment. Learned advocate for the applicant therefore, submitted to set aside the impugned order and judgments.

5. Learned advocate for respondent Nos. 2 and 3 strongly opposed the revision and pointed out the impugned order and judgment passed by the learned trial court, particularly para 6 of the impugned order, in which it is observed that the applicant is owner of land block No. 26 and plot No.15 situated at village Pimparala, Tq and District Jalgaon so also the owner of land block No.99/1 at Mouje Bahal, Tq. Chalisgaon, District Jalgaon. Learned advocate for the respondents pointed out that the applicant is serving in Pagariya Auto Pvt. Limited and his gross salary is Rs.13,389/-. He submitted that reasons and findings of the trial court are legal and no

interference is warranted in it.

6. Heard the learned A.P.P. for respondent No.1 State.

7. Perused the impugned order and judgment as well as the documents submitted on record by both sides. The 7x12 extracts of the agriculture lands are in the name of father of the applicant. However, there is concrete prima facie evidence of monthly salary of Rs.13,389/- and even after deduction, the applicant is receiving net salary of Rs.12,092/- p.m.

8. The learned trial court as well as the appellate court considered the income of the husband. However, there is no evidence to show that respondent No.2 wife is having source of income. Both the courts have considered prima facie case for granting interim maintenance to respondent No.2 wife and reasonable amount of maintenance of Rs.4000/- is granted to the respondent No.2 wife and Rs.2000/- to respondent No.3-son. There is absolutely no substance in the grounds of objections raised by the applicant. The impugned order and judgments are legal, correct and no interference is warranted in it. The revision therefore, deserves to be rejected with costs. Hence, the following order:-

O R D E R

9. The criminal revision application is rejected.

10. However, considering the facts and circumstances of the case, respondent Nos. 2 and 3 must have incurred some amount to face this litigation, therefore, the applicant is directed to pay costs of Rs.5000/- to be deposited in the trial court. Respondent No.2 is at liberty to withdraw the said amount of Rs.5000/- and if it is not deposited it can be recovered as is provided in law.

11. Learned advocate Ms. Ashlesha Kulkarni, who was appointed in criminal writ petition No. 1419 of 2023, which is now converted into criminal revision application No. 25 of 2024, to represent the cause of respondent Nos. 2 and 3 is entitled for her legal fees and expenses. The High Court Legal Services Sub Committee, Aurangabad to pay her the fees as per Rule and schedule.

(SANJAY A. DESHMUKH, J.)

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