



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.306 OF 2023

Kiran Saurabh Kadam,
Age : 28 years, Occu. : Household,
R/o. C/o. Sanjay Tukaram Katke,
Sher Sarvar Colony, Totla Petrol Pump,
Bhokardan Naka, Jalna,
Dist. Jalna.

... Applicant.
(Orig. Petitioner)

Versus

Saurabh Suryakant Kadam,
Age : 33 years, Occu. : Service,
R/o. House No.18, Near Chanakyapuri,
Bharat Mill, Karva Road, Hubli,
Tq. and Dist. Hubli, Karnataka.

... Respondent.
(Orig. Respondent)

...
Mr. Mahesh Kalidas Bhosale, Advocate for Applicant
Ms. Sayali S. Tekale, Advocate for Respondent (appointed)
...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 03 DECEMBER, 2024

PRONOUNCED ON : 10 DECEMBER, 2024

ORDER :

1. Revisionist (original petitioner) is hereby seeking enhancement of maintenance awarded on 10.07.2023 by learned Family Court, Jalna in Petition No.E-01 of 2021.

2. Learned counsel for applicant pointed out that, applicant and respondent were married in 2019. That,

subsequently, on account of cruelty both physical, mental and maltreatment, she was constrained to leave husband and is taking shelter with her parents. As there was neglect to maintain, she was constrained to seek maintenance by invoking section 125 of the Code of Criminal Procedure. Learned counsel pointed out that it is not denied and has come on record of trial court that respondent husband urged salary of Rs. 97,000/-. However, still learned trial court awarded maintenance of only Rs.15,000/- and it is too meager and hence prayers for enhancement.

3. Learned counsel for respondent - husband opposed on the ground that revisionist is highly educated. She has acquired M.Tech qualification and she earns independently by conducting online business and hence she prays to dismiss the revision.

4. Heard both sides. Perused the papers, which show that parties herein are couple, who got married in 2019, it seems that, alleging ill treatment and maintaining extra marital affair, crime has been registered at her instance and since then revisionist seems to be staying with her parents. Separation is not challenged or disputed. Apparently no efforts seems to be done by husband to bring back revisionist. Papers show that, she set up maintenance claim of Rs.40,000/- from the petitioner in Family Court, Jalna.

5. Learned trial court offered opportunity to both sides to adduce evidence and contest their claims and counter claims. Finally, on appreciating the available evidence, learned trial court seems to have granted maintenance of Rs.15,000/- per month. Obviously, order is reasoned, wherein cases put-forth by each of the side are discussed along with settled legal position by the learned trial court from paragraph no.12 onwards. It is noticed that as regards to maintenance is concerned, learned trial court has held the entitlement in paragraph nos.27 and 28 and has observed that present respondent husband admitted about he is getting salary of Rs.97,000/- and has not demonstrated further other liabilities and responsibilities. His assertion is that, wife is qualified and earns from online business. But, no evidence to that extent has been brought on record. Therefore, when there is admission about earning salary of Rs.97,000/-, and there is neglect to maintain, quantum awarded by trial court to the tune of Rs.15,000/- per month appears to be on slightly lowered side in comparison the income earned by husband. Hence, revisionist succeeds and the quantum of maintenance is required to be enhanced. Hence, I proceed to pass the following order :-

ORDER

1. Criminal Revision Application is hereby partly allowed.

2. The order dated 10.07.2023 passed by learned Judge, Family Court, Jalna in Petition E-01 of 2021 is hereby modified to the extent of quantum of maintenance awarded vide clause (2) of the impugned order and the amount of maintenance is enhanced as under :-

“Respondent shall pay Rs.20,000/- per month to petitioner towards maintenance allowance from the date of the petition.”

6. Criminal Revision Application is disposed off in above terms.

7. Fees of learned Advocate, who is appointed to represent cause of respondent is to be paid by the High Court Legal Services Sub - Committee, Aurangabad as per rules.

(ABHAY S. WAGHWASE, J.)