



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

CRIMINAL WRIT PETITION NO. 1698 OF 2022

**HUMERA NAAZ D/O. MIRZA RAFIQ BAIG THROUGH HER
NATURAL GUARDIAN HEENA KAUSAR D/O. MOHAMMAD IDRIS
VERSUS
MIRZA RAFIQ BAIG S/O. MIRZA GAFFAR BAIG**

....

Mr. S. N. Deshmukh, Advocate for the Petitioner

Mr. A. R. Shaikh, Advocate for the Respondent

....

CORAM : Y. G. KHOBRAGADE, J.

DATE : 18.10.2024

PER COURT :-

1. Heard the learned Advocates for both the sides, at length.
2. Rule. Rule is made returnable forthwith.
3. The present Petition is restricted to the extent of granting enhanced maintenance allowance to the present Petitioner from the date of the order instead of from the date of the Application i.e. 03.11.2014.

4. The present Petitioner is the original Applicant No.2 and the present Respondent is the non-applicant in Criminal Misc. Application No.698 of 2014.

5. It is not in dispute that on 03.11.2014, the present Petitioner with her mother filed Criminal M.A. No.698 of 2014 and prayed for maintenance under Section 125 of the Code of Criminal Procedure as against the present Respondent.

6. On 16.02.2018, the learned J.M.F.C., Sillod, passed the judgment and order. By said judgment, the trial Court granted maintenance to the tune of Rs.2,000/- p.m., in favour of the present Petitioner from the date of the Application, however, the maintenance was refused in respect of Applicant No.1(wife) Mrs. Heena Kausar Mohd Idris.

7. Being aggrieved by the said judgment and order, the original Applicants filed revision bearing Criminal Revision Application No.111 of 2018 before the learned Sessions Court. On 26.04.2022, the learned Sessions Court partly allowed the Revision and modified the judgment and order dated 16.02.2018 passed by the

learned J.M.F.C. Sillod to the extent of the present Petitioner (minor daughter Ms. Humera Naaz) and enhanced the maintenance amount from Rs.2,000/- to Rs.5,000/- from the date of the order.

8. Needless to say that order of maintenance is always to be granted from the date of the Application, but, while awarding the maintenance from the date of the order, it is expected from the learned Sessions Court to assign the proper reason for declining the maintenance from the date of the Application. In case in hand, under the impugned order, though the learned revisional Court enhanced the amount of maintenance from Rs.2,000/- to Rs.5,000/- in respect of the present Petitioner minor daughter, but declined to grant enhanced maintenance from the date of application and no any specific reason assigned as to why the said enhanced amount granted from the date of the order. Therefore, to my mind, the impugned order to the extent of enhancement of the maintenance from the date of the order does not appear justifiable. Therefore, the said order is required to be modified.

9. In view of the above, **the Writ Petition is partly allowed.**

10. The impugned order dated 26.04.2022 passed by the learned Additional Sessions Judge, Aurangabad in Criminal Revision Application No.111 of 2018 is hereby set aside to the extent of Clause No.3 of the operative order and it is modified the enhancement of the compensation of Rs.5,000/- from Rs.2,000/- from the date of the Application i.e. 03.11.2014.

9. Rule is made partly absolute.

[Y. G. KHOBRADE, J.]

SMS