

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Criminal Writ Petition NO.613 of 2023

Sau. Rashmi Rakesh Varma	...Petitioner.
V/s.	
Shri. Rakesh Purushottam Varma	...Respondent

Adv. Chetan S. Damre for the Petitioner.
Adv. Rajesh Khobragade a/w. Adv. Ramwadh Pandey for
Respondent.
Shri. S. S. Pednekar, APP for the State.

CORAM : RAJESH S. PATIL, J.

DATED : 8 MARCH 2024

P.C.:

1. This Writ Petition is filed by the wife challenging an order passed by the Family Court at Nashik. The Application was filed by the wife under Section 127 of the Code of Criminal Procedure.

2. The wife had filed an application under Section 125 of the Cr.P.C. claiming maintenance from the husband. The Chief Judicial Magistrate Nashik by its order dated 1 September 2009 granted a maintenance of Rs.20,000/- per month as maintenance to the wife.

3. Thereafter, on 13 August 2016 the wife filed application under Section 127 of the Cr.P.C. claiming enhancement in the maintenance. The said Application of the wife was opposed by the husband and after hearing both the sides, the learned Judge has dismissed the Petition filed by the wife.

4. Hence, the present Writ Petition has been filed by the wife challenging the order of rejection of her application under Section 127 of the Cr.P.C.

5. Mr. Chetan appeared on behalf of the wife submitted that the maintenance was granted to the wife under Section 125 of the Cr.P.C. in the year 2009. He submitted that after 2009 there was rise in the prices of essential commodities and so also the salary of the respondent husband had increased. He submits that husband is working with TATA Consultancy Services as System Analyst. Hesubmits that the Petitioner wife is staying with her parents. The parents of the applicant are senior citizen aged around 80 years. He submits that in Section 127 application filed by the wife it was pleaded to enhance the compensation to Rs.50,000/- per month. He submits that the said application was made in the 2014 and the present Writ Petition is filed in month of

June 2016.

6. He submits that the present petition was filed by earlier advocate appearing for the petitioner and after present advocate came on record, he has immediately made application to this Court to take the matter on board. He submits that the Court should also take into consideration that after filing of the Petition, in the essential commodities, there is hike in the value. He submits that therefore the Writ Petition should be allowed and the impugned order should be quashed and set aside and this court should grant a reasonable amount of interim r compensation to the wife of Rs.50,000/-.

7. Mr. Chetan, appearing for the petitioner submits that even the rate at which the maintenance was granted under Section 125 in the year 2009 . There is arrears of Rs.2,40,000/-.

8. Mr.Khobragade, learned counsel appearing for the Respondent submits that he tenders before the Court payslip February 2024 of the respondent husband. He submits that as per the payslip itself it can be seen that there are various deductions which are amounts to be paid by the respondent husband. He submits that the respondent husband has also to take care of his

mother, who is dependent on him. He submitted that the respondent husband is not medically fit and there is huge expense which has to be incurred for medical. He submits that the respondent is suffering from Immune Thrombocytopenic Purpura (ITP). He submitted that the medical expenses of the respondent can come up at any time, since his blood platelets comes down anytime therefore, the medical emergency arise. He submitted that's the reason why court granted maintenance of Rs.20,000/-. He submits that the maintenance allowance of Rs.20,000/- should be continued.

ANALYSIS AND CONCLUSION :

9. I have heard both the sides and have gone through the impugned order and the documents produced by both the sides.

10. The latest salary slip of the respondent for the month of February 2024 shows that the respondent receives Net Pay of Rs.1,58,998/-. The said salary slip also shows as deduction a sum of Rs.2,360/- paid per month towards health insurance scheme premium. So also, there is deduction of Provident Fund of Rs.8,400/- per month. As regards the health issue of the mother of the respondent. Mr. Khobragade, learned counsel for the

respondent submits that as voluntarily submitted before this Court the mother of respondent received pension as of now of Rs.5,000/- per month approximately. It is a matter of record that apart from respondent there are two more brothers of the respondent who are staying separately with their family.

11. I am considerable view that the two more brothers of the respondent must also be taking care of mother, as their moral duty.

12. As regards the health issues of the respondent husband, it has come as a matter of record that respondent is paying health insurance of Rs.2,360 per month. This means that the respondent is paying a premium of insurance at least of Rs.28,000/- approximately per year. It is also matter of record that Net Pay of the respondent husband is Rs.1,58,998/-. The respondent husband has also stated that one of his brother is keeping ill health and he and his other brother are taking care of his day to day expenses.

13. Taking into consideration the entire facts of this matter, I am of the opinion that the application filed by the wife under Section 127 is required to be allowed and the impugned order

dated 23 June 2015 is required to be quashed and set aside. The maintenance payable by respondent husband to the wife is hereby increased to Rs.60,000/- per month payable from the month of March 2024. Even though granting of the application should have been considered by me from the date of the application made. However, in order to balance the equities the amount is fixed at Rs.60,000/- payable from March 2024 till further orders of this Court.

14. Respondent is also directed to clear the entire outstanding amount as per earlier order passed within a period of eight weeks from today.

15. Learned counsel for the respondent at this stage seeks a stay to the implementation of this order.

16. Learned counsel for the Petitioner wife has opposed this Application.

17. The request made by the learned counsel for the respondent is hence, rejected.

(RAJESH S. PATIL, J.)