



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL REVISION APPLICATION (REVN) NO.71 OF 2023

[Archana W/o Sunil Deshbratar and Ors. ..Vs.. Sunil S/o Bhaurao
Deshbratar]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr S. S. Bhalerao, Advocate for Applicants.
Ms S. D. Paul, Advocate for Non-Applicant.

CORAM : M. W. CHANDWANI, J.

DATE : 12th APRIL, 2024.

. Heard.

2. The criminal revision application challenges the judgment and order dated 05.01.2023, passed by the learned Family Court, Nagpur, in Criminal M. A. Nos.91 of 2014 and 64 of 2017.

3. The fact, which leads to filing of the present application, can be culled out as under :

The applicants herein had filed an application under Section 125 of the Code of Criminal Procedure, 1973, before the learned Family Court at Nagpur, *Vide* Petition No.E-287 of 2013. During pendency of the said petition, the matter was settled between the applicants and non-applicant. The non-applicant agreed to pay Rs.5,000/- per month to each of the applicants. The applicant No.2 attained the age of majority on 26.05.2014. Therefore, Criminal M. A. No.91 of 2014 came to be filed by the non-applicant for cancellation of the order of maintenance of applicant No.2 on the premise

that he has attained the age of majority. Pending the said application in the year 2017, the applicants filed an application for enhancement of maintenance amount on the ground of change in circumstances. The learned Family Court by the common judgment and order allowed both the applications, thereby cancelling the order of maintenance of applicant No.2 on account of his attaining the age of majority and enhanced the maintenance amount of the applicant Nos.1 and 3 from Rs.5,000/- per month to Rs.7,500/- per month. Feeling aggrieved with the quantum of maintenance, the applicants have filed this criminal revision application.

4. Heard Mr Bhalerao, learned counsel for applicants as well as Ms Paul, learned counsel for non-applicant. I have perused the record and impugned judgment and order.

5. The contention of the learned counsel appearing for the applicants is that during the course of cross-examination, the non-applicant admitted his salary as Rs.60,000/- per month on 05.12.2017. Thereafter, the applicants filed amendment application and attempted to bring on record the implementation of 7th Pay Commission to the Central Government Employees including the non-applicant, to show the increase in salary of the non-applicant. Instead of allowing the application, the learned Family Court, Nagpur, directed the non-applicant to produce the salary certificate, which was produced accordingly showing the gross salary of non-applicant as Rs.1,16,000/- and net salary Rs.69,000/- per

month, after deduction towards General Provident Fund (GPF) of Rs.20,000/-.

6. Perusal of the impugned order reveals that while deciding the application, the learned Family Court did not consider the salary, which was shown in the salary certificate produced by the non-applicant and relied on the admission of the non-applicant, which was made prior to moving the amendment application to bring on record implementation of 7th Pay Commission to the non-applicant. Though, the learned Family Court directed the non-applicant to produce the salary certificate on record, but the same was not considered while granting maintenance to the present applicant Nos.1 and 3. Even otherwise, despite the fact that there was admission on the part of the non-applicant that he gets salary of Rs.60,000/- per month, but basis on which, the enhancement amount was enhanced to the extent of Rs.2,500/- has not been discussed by the learned Family Court. Since this aspect have not been considered by the learned Family Court in its impugned judgment and order, therefore, the matter is required to be remanded back to the Family Court, Nagpur to give its finding on this aspect. Therefore, the judgment and order of the learned Family Court does not sustain and is required to be set aside. Accordingly, the application is partly allowed.

7. The matter is remanded back to the learned Family Court, Nagpur, to decide the application of the applicants for

enhancement of maintenance amount by considering the salary certificate, which has been produced by the non-applicant.

8. Till the application is decided, the non-applicant shall continue to pay the maintenance amount of Rs.7,500/- per month to the applicant Nos.1 and 3, as decided by the learned Family Court, Nagpur.

9. The learned Family Court, Nagpur, shall make endeavour to dispose of the application as early as possible preferably within a period of three months from the date of receipt of this order.

10. The parties are directed to appear before the learned Family Court at Nagpur, on 30.04.2024.

11. In view of the above directions, the criminal revision application is disposed of.

(JUDGE)