



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

CRIMINAL REVISION APPLICATION NO. 216 OF 2023

Sau. Maya Dhanraj Umare,
Aged About – 53 Years,
Occupation – Household,
R/o. Bhosa,
Tq. and District -Yavatmal.

.... **APPLICANT**

// **VERSUS** //

Dhanraj Nana Umare,
Age About 55 Years,
Occupation – Service (Teacher),
R/O. Kumbha, Zillha Parishad
School, Kanada, Tq. Maregaon,
District – Yavatmal.

.... **NON-APPLICANT**

Mrs. Archana Murrey, Advocate(appointed) for Applicant.
Mr. M.N. Ali, Advocate for Non-applicant.

CORAM : M.W. CHANDWANI, J.

DATED : JANUARY 22, 2024

ORAL JUDGMENT :

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

2. The short question involved in this application is that whether under Section 127 of the Code of Criminal Procedure (for short the 'Cr.P.C.') enhanced maintenance is to be granted from the date of order or from the date of application. The applicant is wife of the

non-applicant. The applicant and her son were granted maintenance of Rs.3,000/- each per month. The applicant and her son filed an application before the learned Family Court, Yavatmal under Section 127 of the Cr.P.C. for enhancement of the maintenance amount from Rs.6,000/- to 40,000/- per month for both. The application was contested by the non-applicant husband. After appreciating the material available on record, the learned Family Court by impugned order enhanced the maintenance amount of applicant from Rs.3,000/- to Rs.18,000/- per month from the date of order i.e. from 18.11.2022, whereas, the claim of son of the applicant came to be refused on the ground of his attaining majority. The applicant has challenged the impugned order only on limited ground that she has not been awarded enhanced maintenance from the date of application.

3. Heard learned Counsel for the applicant as well as learned Counsel for the non-applicant and perused the impugned order.

4. The issue is no more *res integra*. This Court and the Hon'ble Supreme Court in series of decisions have held that the maintenance should be granted from the date of application unless the Court gives specific reason for granting the maintenance from the date of order instead of the date of application.

5. With the able assistance of the learned Counsel for the applicant as well as non-applicant, I perused the judgment particularly para No.40, which is reproduced as under :

“40. Considering all these aspects in my opinion it would be just and proper to enhance the maintenance of the petitioner No.1 from Rs.3,000/- per month to Rs.18,000/- per month from the date of this order. At present as the petitioner No.1 is recovering Rs.13,000/- per month from the respondent towards the maintenance of herself and petitioner No.2, I am inclined to grant the enhanced maintenance from the date of this order. It is made clear that this amount of enhanced maintenance is inclusive of interim maintenance granted in appeal filed against judgment passed in petition for restitution of conjugal rights and the rent granted in PWDV Act proceeding. Hence, I answer point No.1 and 2 in Cril.Misc.A.No.11/2021 in affirmative to the extent of petitioner No.1 only and point No.1 in Cril.Misc.A.No.22/2022 in affirmative.”

6. Thus, from the above said observation, it is apparent that though initially, the applicant was granted maintenance of Rs.3,000/- per month, but considering the order of maintenance in other proceedings, the learned Judge of the Family Court has recorded that the applicant was getting Rs.13,000/- per month towards maintenance during pendency of the application for enhancement of maintenance. This fact weighed in the mind of learned Judge of the Family Court for enhancing the maintenance amount of the applicant from the date of order instead of the date of application.

7. I see no error in the order of learned Judge of the Family Court. When during pendency of the application for enhancement of maintenance, the applicant was getting Rs.13,000/- per month towards maintenance in all proceedings, therefore, the Family Court by giving specific reason, has rightly enhanced the maintenance amount from the date of order. Thus, no interference is required at the hands of this Court. The application is sans merit hence, it is **dismissed**.

8. The professional fees of the learned appointed Counsel for the applicant be quantified and paid in accordance with rules.

The application is disposed of accordingly.

(M.W. CHANDWANI, J.)