



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO. 4 OF 2021

Ganesh S/o Pralhad Tayade
..VS..
Sau. Jyoti W/o Ganesh Tayade

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

Court's or Judge's orders

Mr. A.J. Thakkar, Advocate for applicant.
Mr. Y.N. Sambre, Advocate for respondent.

CORAM : G.A. SANAP, J.
DATED : 12th JUNE, 2024

Heard finally by consent of the learned Advocates
appearing for the parties.

2. In this revision application, challenge is to the Judgment and order dated 11th March, 2020 passed by the learned Sessions Judge, Buldhana whereby the appeal filed by the applicant under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (for short the "D.V. Act") against the order of enhancement of the maintenance was dismissed.

3. There is no dispute about the marital relations between the parties. Undisputedly, the non-applicant wife has been residing separately from the applicant husband on account of the domestic violence caused to the non-applicant. She had filed an application for the reliefs including the relief of maintenance. In the said proceedings, vide order dated 30th June, 2010, the

maintenance at the rate of Rs.1,000/- per month was allowed. The non-applicant wife thereafter made an application for enhancement of maintenance in the changed circumstances. Initially, the application was titled as an application under Section 127 of the Code of Criminal Procedure however, when an objection was raised by the applicant, the learned Magistrate allowed the non-applicant to carry out the amendment. The application was converted into an application under Section 25 of the D.V. Act.

4. The parties adduced evidence. The non-applicant examined herself as sole witness in support of her contention. The applicant has also examined himself in support of his defence. It is evident on perusal of the record that the non-applicant has stated in her evidence the changed circumstances warranting enhancement of the maintenance. She has categorically deposed about the income etc. of the applicant. It is further evident that the applicant failed to cross examine the non-applicant. The evidence of the non-applicant as to the income of the applicant and the changed circumstances has gone unchallenged and uncontroversial. Learned Magistrate on appreciation of the evidence found that the enhancement of Rs.2,000/- per month was fully justified.

5. In the appeal, the appellate Court has re-appreciated the evidence and found that there was no error on the part of the learned Magistrate in granting enhancement of Rs.2,000/- per month.

6. In the revisional jurisdiction, considering the limited scope, the learned Advocate for the applicant has not been able to convince this Court that the Courts below have committed patent illegality or error in granting enhancement of maintenance. On going through the record, I am satisfied that there is no error or mistake on the concurrent findings of fact recorded by the Courts below.

7. In view of this, I do not find any substance in this revision. Hence, the Revision Application is accordingly rejected.

(G.A. SANAP, J.)