



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

CRIMINAL REVISION APPLICATION NO.132 OF 2024 AND
WRIT PETITION ST. NO. 16009 OF 2024

CRIMINAL REVISION APPLICATION NO.132 OF 2024

Ashish s/o Vasant Varade, Aged about 34 years, Occupation : Service, Resident of Plot No.7, Ramkrishna Park, Takli Road, Dwarka, Nasik – 422 011. Presently r/o Apartment, 22D, 43/23 colden street, Flushings, New York, Unites States of America – 11355. (original non-applicant).

... APPLICANT_

VERSUS

Sou. Ashwini w/o Ashish Varade, aged about 30 years, Occupation – Service, Resident of C/o Dhanraj Laxmanrao Khandre, Plot No. 33, C/o Akotkar, LIC Agent, Khandave Layout, Amrai, Old Wadgaon, Yavatmal, Taluka and dist. Yavatmal (original Applicant)

... NON-APPLICANT.

WRIT PETITION ST. NO. 16009 OF 2024

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... PETITIONER_

VERSUS

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... RESPONDENT_

Shri M.I. Dhatrak, Advocate for the applicant/petitioner.
Shri Harish V. Thakur, Advocate for the non-applicant/
respondent.

CORAM : **SANDIPKUMAR C. MORE, J.**
CLOSED ON : **13/12/2024**
PRONOUNCED ON : **17/12/2024.**

JUDGMENT :

Both the petitions are heard finally with the consent of the parties at admission stage.

2. The applicant in both these matters has challenged the common order below Exhibit 15 in Petition E-67/2022 and Exhibit 6 in Petition No.A-171/2022. Under the aforesaid common order dated 24.06.2024, the Family Court, Yavatmal has granted maintenance amount to the respondent in both these matters. The Family Court in

Petition No.E-67/2022 has granted interim maintenance to the respondent-wife at the rate of Rs.5,000/- per month and also granted interim maintenance at the rate of Rs.10,000/- per month to her minor daughter from the date of application Exhibit 15 i.e. 10.03.2022.

3. Simultaneously, the learned Family Court in Petition No.A-171/2022 granted similar maintenance amount as mentioned above to the respondent and her daughter from the date of application Exhibit 6 i.e. 23.12.2022. The learned Family Court has specified that the interim maintenance granted to the wife and daughter in Petition No.E-67 of 2022 is not in addition to the interim maintenance granted to them in Petition No.A-171/2022.

4. The brief facts are that the respondent/wife has filed Petition No.E-67/2022 for getting interim maintenance at the rate of Rs.50,000/- per month each to herself and her minor daughter under the provisions of Section 125 of the Code of Criminal Procedure (CrPC) by filing the application (Exhibit 15). Simultaneously, she also claimed similar interim maintenance in the Petition No.A-171/2022 by filing the application (Exhibit 6) as per provisions of Section 24 of the Hindu Marriage Act ('the Act'). The learned Family Court after hearing the parties and considering the documents on record, has granted aforesaid interim maintenance amount to the respondent and her daughter,

hence, this Revision Application.

5. The Revision Application is filed in respect of the interim maintenance granted under Section 125 of the CrPC and the Writ Petition is filed against the grant of interim maintenance under Section 24 of the Act.

6. The learned Counsel for the applicant/husband in both these matters vehemently argued that, though the applicant/husband is not having any grievance about the maintenance granted to his daughter however he resisted the same on the ground of quantum. On the other hand, he has strongly challenged the impugned common order in respect of the granting interim maintenance to his wife by contending that, she is working woman and getting gross salary around Rs.52000/- per month. He contended that the learned Family Court has granted aforesaid interim maintenance amount separately in each proceedings, and therefore, considering the salary of the applicant/husband, it is definitely exorbitant.

7. On the contrary, the learned Counsel for the respondent/wife supported the impugned order by saying that there is no separate maintenance granted by the learned Family Court in each proceeding, but while passing the common order the Family Court has

specified that the maintenance amount granted in the proceeding under Section 125 of the CrPC is not in addition to the maintenance granted in proceeding under the Act. As such, he prayed for dismissal of both the proceedings.

8. It is significant to note, that the applicant/husband is not seriously disputed the interim maintenance of his daughter but according to him, since the respondent/wife is also an earning member, the quantum of maintenance granted to his daughter should be reduced. It is to be noted here that, the learned Family Court while granting the aforesaid interim maintenance has considered statements of the assets and liabilities filed by the rival parties. On going through the impugned order, it appears that gross salary of respondent/wife is around Rs.52,000/- and her net salary comes around to Rs.40,000/- per month. It is not in dispute that the respondent/wife is also maintaining her daughter without any financial support of the applicant/husband, and therefore, considering the status of the applicant/husband, she is also entitled to the same status of living. It is significant to note that the salary of the applicant/husband is undisputedly of Rs.1,27,638/- as per his salary record. Though he claimed that he only gets Rs.81,000/- per month after deduction, but this is also sufficient to pay the amount of interim maintenance to the

respondent and her daughter.

9. It is significant to note, that the learned Apex Court has already observed in many cases that even though the wife is earning something then also the husband cannot be absolved from paying maintenance to her. The learned Family Court in the impugned order itself has specifically mentioned in paragraph 19 that as to what should be the factors for consideration in granting maintenance. There is vast differences between the earnings of applicant/husband and respondent/wife. In the instant matter, the applicant/husband is earning Rs.12 to 13 lakhs per annum, which can be seen from the documents of the Income Tax paid by him, which is of Rs.2,16,719/-.

10. On the contrary, the gross income of respondent/wife is only Rs.2,37,460/- per annum. As such, considering these differences in the earnings between the parties, the respondent/wife is definitely entitled for the aforesaid reasonable amount of interim maintenance awarded by the learned Family Court. Further, under Clause 6 of the operative part of the impugned order dated 24.06.2024, the learned Family Court has already made it clear that, the interim maintenance granted to the wife and daughter in Petition No.E-67/2022 is not in addition to the interim maintenance granted to them in Petition No.A-171/2022.

11. Though the learned Counsel for the husband by referring judgment of this Court in case of *Rajnesh Naidu vs. Neha Naidu (Criminal Writ Petition No.875/2015)* submitted that maintenance should be granted only in one proceeding when there are multiple proceedings are going on between the parties. However, by the aforesaid Clause 6, the learned Family Court had already specified the position that the interim maintenance under Section 125 of the CrPC is not in addition to the maintenance in another proceedings.

12. Therefore, by this clarification, it appears that the interim maintenance amount granted to the respondent and her daughter under the impugned common order is absolutely reasonable, specially considering the monthly income of the applicant/husband and also considering the fact that his mother is possessing non-agricultural land at Nashik City. Thus, no interference is called in the impugned common order and resultantly, the Criminal Revision Application No.132 of 2024 along with Writ Petition st. No.16009/2024 stand dismissed.

(SANDIPKUMAR C. MORE, J.)

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