



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

CRIMINAL REVISION APPLICATION NO.270 OF 2022

(Shri Satish s/o Daulatrao Dhandole Vs. Mrs. Dhanashree w/o Satish Dhandole)

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

Court's or Judge's orders.

Mrs. S. P. Deshpande, Advocate for Applicant.
Mr. N. R. Bhishikar, Advocate for Non-Applicant.

CORAM: G. A. SANAP, J.

DATE: 20th AUGUST, 2024.

Heard learned Advocate for the parties. Perused the record and proceedings.

2. In this revision application challenge is to the judgment and order dated 28.08.2021 passed by the learned Judge, Family Court No.3, Nagpur whereby the application filed by the non-applicant (herein after referred to as a wife) against the applicant (herein after referred to as husband) for maintenance came to be allowed and the learned Judge quantified the monthly maintenance at the rate of Rs.50,000/- payable from the date of petition i.e. 26.07.2017.

3. The application was filed by the wife contending that after marriage for few days there was no dispute as such between them. However, subsequently the dispute started on account of the behaviour of the husband. The wife has stated that she was not properly treated.

She was subjected to mental and physical cruelty. The behaviour of the husband was not normal. The wife contended that the husband deserted her. She started residing with her parents at Nagpur. The husband did not make any arrangement for maintenance despite having sufficient means.

4. The application was opposed by the husband by filing the reply. The husband denied the material averments made in the application by the wife.

5. The application made by the wife for interim maintenance was allowed vide order dated 26.12.2018. After the order for granting interim maintenance the matter was fixed for the evidence of the wife, the wife submitted her affidavit of examination-in-chief. The husband did not participate in the proceeding. The Advocate for the husband also did not attend the Court from 28.06.2019. The cross-examination of the wife on behalf of the husband was treated as closed. The matter was fixed for evidence of the husband, however, the husband neither appeared nor adduced the evidence. The learned Judge on the basis of the evidence adduced by the wife decided the petition vide judgment and order dated 28.08.2021. The husband has challenged this order.

6. It is the contention of the husband that sufficient opportunity was not granted to him to meet the case of the wife. It is also contended that on account of the lock-down imposed due to Covid-19 pandemic, he could not attend the

proceeding.

7. I have heard the learned Advocate appearing for the parties. Perused the record and proceedings.

8. In my opinion, considering the factual situation, it would be in the interest of both the parties to have the adjudication of the application on merits. The learned Judge of the Family Court has awarded the maintenance at the rate of Rs.50,000/- per month. The husband has deposited the maintenance amount in this Court. There is no grievance on this count on behalf of the wife. It is to be noted that there was a failure on the part of the husband as well as his Advocate to take proper care at the relevant time. The matter was posted for evidence of the husband. However, in the meantime, the lock-down was imposed on account of Covid-19 pandemic. The husband is residing at Bhubaneswar. He is a Professor in IIT Bhubaneswar. The wife has placed on record the information regarding his salary, obtained under the RTI Act for the relevant period. The application was decided in August 2021. It is the case of the wife, that she is not doing any job or service. It is her contention she has no source of income. In my opinion, final adjudication of dispute between husband and wife on merit would be in the interest of the wife. The adjudication of the matter must put the dispute between the parties to rest finally. If the matter is not adjudicated upon finally then there is a possibility of multiplicity of litigation. The maintenance has been awarded in favour of the wife.

In my view, the multiplicity of proceeding will not be in the interest of the wife. In my view, in order to safeguard the interest of the wife and to see that she is not dragged in further litigation, it would be just and proper to grant an opportunity to the husband to lead the evidence. The material placed on record suggest that on account of lock-down imposed due to Covid-19 pandemic, the husband could not attend the matter. In the facts and circumstances, without going in the further details of the matter, it would be just and proper to set aside the impugned order and restore the main petition for final adjudication on merits. Accordingly, the application is allowed. The impugned judgment and order dated 28.08.2021 passed by the learned Judge of the Family Court No.3, Nagpur is set aside. The Petition No.E-321/2017 is restored to the file. The husband shall continue to pay the maintenance to the wife at the rate of Rs.50,000/- per month till the final disposal of the petition by the Family Court. In view of the remand of the matter to the Family Court for fresh adjudication, the wife is also granted liberty to place on record additional evidence, if any. The learned Judge shall endeavour to dispose of the petition within a period of six months from the date of receipt of the order of this Court.

(G. A. SANAP, J.)