



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

CRIMINAL REVISION APPLICATION NO.213 OF 2023

Patilbuva Triambak Susar,
Aged about 42 years,
Occ - Labour R/o Post Jamb,
Buldhana, Taluka & District
Buldhana

...APPLICANT

...V E R S U S...

1. Sau. Vanita Patilbuva Susar,
Aged — 35, Occ — Nil,
2. Ku. Gayatri Patilbuva Susar
Aged 17 years Occ - Education
Though legal Guardian,
C/o Bhagwan Kaduba Kakde,
Both R/o Afjhalpur Wadi,
Tehsil and District Buldhana

...NON-APPLICANTS

Shri U.M. Changle, Advocate for Applicant.
Shri A.M. Tirukh, Advocate for Non-applicants.

CORAM:- M.W. CHANDWANI, J.
DATED :- 29.02.2024.

ORAL JUDGMENT:

. Heard. **Admit.**

2. This revision application challenges judgment and order dated 20.07.2023 passed by the learned Family Court, Buldhana in Petition No.E-49/2022 thereby allowing the application of applicant filed under Section 125 of the Code of

Criminal Procedure (for short 'Cr.PC.') for grant of maintenance. By the impugned judgment the learned Family Court granted maintenance allowance at the rate of Rs.4,000/- per month to the non-applicant no.1 – wife and Rs.3,000/- to the non-applicant no.2 – daughter from the date of application.

3. The non-applicants filed application before the Family Court under section 125 of the Cr.P.C. alleging that the non-applicant no.1 after marriage resided with the applicant and they had begotten non-applicant no.2 – daughter; Gayatri and son; Siddesh. The applicant and his relatives used to ill-treat the non-applicant no.1. The applicant used to scold and beat her using kicks and blows just because she was defeated by her opponent in Grampanchayat elections, which she was compelled by the applicant to contest. Therefore, the applicant and his relatives started harassing and ill-treating her on account of the same and even asked her to bring Rs.10,00,000/- from her parents. Even the applicant used to doubt her character. The nephew of the applicant tried to outrage her modesty. The applicant called the father of the non-applicant no.1 and insulted him and ousted the non-applicant nos.1 and 2 and kept son Siddesh with him. The non-applicant no.1 has no source of income. The applicant earns

Rs.10,00,000/- per annum therefore the non-applicant sought maintenance of Rs.15,000/- per month for herself and her daughter.

4. The application of maintenance was opposed by the applicant, *inter alia*, denying allegations made in the application and submitted that after she contested the election, her behaviour changed and she used to remain out of the house for the whole day and even threatened to kill him. Ultimately, on 17.11.2021, the non-applicant no.1 on her own accord left the house of the applicant and at the time of leaving the house she took away all her ornaments, clothes and documents. Even on 06.04.2022, she quarrelled with the applicant and demanded an amount of Rs.10 to 15 lakhs and thereafter lodged a false report against the applicant. The applicant has no source of income and is doing labour work. He has to maintain his son, whereas the non-applicant no.1 is doing work of Bachatgat, hence, sought rejection of the maintenance application.

5. After appreciating the material on record including the evidence led by both parties, the learned Family Court, Buldhana passed the impugned judgment and order, which is under challenge by way of present revision application.

6. Heard learned counsel for the applicant as well as learned counsel for the non-applicants. I have gone through the impugned judgment and record and proceedings of Petition No.E-49/2022.

7. Though there is ground of no ill-treatment to the non-applicant no.1 at the hands of applicant but the principal ground raised in the revision is about quantum of the maintenance amount.

8. Perusal of the impugned judgment goes to show that the Family Court has dealt with the aspect of ill-treatment and relied on the version of the non-applicant no.1 regarding ill-treatment. The Family Court rightly held that mere non-filing of police report is not a ground to discard the testimony of the non-applicant no.1. Even, the Family Court held that the applicant did not try for resumption of cohabitation including arranging of any meeting for settlement of dispute with the non-applicant no.1. Relying on his admission in his cross-examination the Family Court has rightly held that the applicant is not interested to cohabit with the non-applicant no.1 and he neglected the non-applicant no.1. Thus, no interference is required in this finding of the trial Court.

9. The non-applicant no.1 has alleged that applicant is earning Rs.10,00,000/- per annum as he runs flour mill and possesses agricultural field. Whereas, the applicant has come with a case that the flour mill belongs to his father. Relying on the electricity bill of the flour mill, which is in the name of applicant, the learned Family Court held that the flour mill is being run by the applicant. It is a matter of record that the applicant possesses adequate agricultural land. Evidently the applicant did not file any affidavit of income as well assets and liability. Therefore, in view of directions given by the Supreme Court in *Rajnish vs. Neha and another*¹ therefore the Family Court after considering the fact of running of the flour mill by the applicant and agricultural land possessed by him, guessed the income of the applicant between Rs.30,000/- to Rs.35,000/- per month. After considering the fact that the applicant is spending on the education expenses of the non-applicant no.2, has granted maintenance of Rs.4,000/- and Rs.3,000/- to the non-applicant nos.1 and 2 respectively. The amount of maintenance granted to non-applicants does not appear to be excessive as claimed by the applicant. There appears no illegality or perversity in the impugned judgment and order. The learned Family Court after considering the fact and circumstances

1 2021(2) SCC 324

of the case, evidence available on record and status of the parties has passed the impugned order. No interference is warranted in the impugned judgment and order. The revision application is devoid of merits and accordingly it is **dismissed**.

JUDGE

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