



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 128 OF 2024

1. Shailendra s/o Bhagwanrao Akole,
Age : 42 years, Occupation: Engineer,
Resident of Gopalpura,
near Chhabda Hospital,
Taluka and District Jalna.

... Applicant
[Orig. Respondent]

Versus

1. Priyanka w/o Shailendra Akole,
Age : 28 years, Occupation: Household,
2. Advika d/o Shailendra Akole,
Age: 06 years, minor under guardianship
of her mother i.e. Respondent No.1.

Both Resident of : Modikhana,
Near Chhabda Hospital,
Taluka and District Jalna.

... Respondents
[Orig. Petitioners]

WITH
CRIMINAL REVISION APPLICATION NO. 320 OF 2024

1. Priyanka w/o Shailendra Akole,
Age : 31 years, Occupation: Household,
R/o Modikhana, Near Chhabda Hospital,
Jalna, District Jalna.
2. Advika d/o Shailendra Akole,
Age: 09 years, Occ. Student
(since minor, under guardianship
of Petitioner no.1)

... Applicants
[Orig. Petitioners]

Versus

Shailendra s/o Bhagwanrao Akole,
Age : 41 years, Occupation : Service
(Senior Engineer at Tech Mahindra,
Hyderabad) R/o Gopalpura,
Near Chhabda Hospital, Jalna,
Taluka and District Jalna.

... Respondent

.....

Ms. Rakhi V. Sundale, Advocate for Applicant in Cri.Revn./128/2024
and Respondent in Cri.Revn./320/2024.

Mr. Quadri Tabrezuddin, Advocate for Applicants in Cri.Revn./320/
2024 and respondents in Cri.Revn./128/2024.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 10.02.2025

PRONOUNCED ON : 20.02.2025

ORDER :

Criminal Revision Application No. 128 of 2024

1. Revisionist husband takes exception to the order dated 08.01.2024 passed by learned Judge, Family Court, Jalna in Petition No. E-259 of 2021 granting maintenance to wife and daughter.

Criminal Revision Application No. 320 of 2024

2. This revision application is at the instance of wife along with minor daughter, also challenging the same order dated 08.01.2024 in Petition No. E-259 of 2021 and praying for further maintenance amount for herself as well as daughter.

SUBMISSIONS**In Criminal Revision Application No. 128 of 2024**

3. Learned counsel for the revisionist husband has questioned the legality of the impugned judgment and order on the ground that wife is highly qualified and earns on her own. That, there is evidence to that extent and that, after order of the Family Court, she has gained employment as a Talathi and therefore, being self sufficient in terms of earnings and income, she is not entitled henceforth to receive any maintenance.

In Criminal Revision Application No. 320 of 2024

4. Revisionist in above revision application pointed out that husband, after inflicting cruelty, deserted wife and daughter. He failed to provide for their maintenance. Therefore, she was constrained to file maintenance proceedings. That, she has a daughter to provide education for, and also needed maintenance amount for herself. That, they had set up a claim before Family Court, but learned Family Court merely directed payment to the tune of Rs.4000/- to wife and Rs.7000/- to daughter. That, said amounts are meager and therefore, she set up claim for maintenance to the tune of Rs.15,000/- and Rs.12,000/- for the revisionists respectively.

ANALYSIS

5. Heard both sides at length. Admitted facts are, parties got married on 25.03.2014 and out of their wedlock, they have a daughter i.e. revisionist no.2 in Criminal Revision Application No. 320 of 2024, who is a school going girl. Wife set up claim under Section 125 of Cr.P.C. advancing case that after marriage, her husband and in-laws ill-treated her on account of demand. Finally she was driven out. In between, there was compromise and she went to co-habit, but since 05.05.2021, on account of fresh demand, she was constrained to reside at her parent's place and husband failed to provide for her maintenance as well as maintenance of daughter in spite of he earning as an engineer and drawing salary of Rs.75,000/- per month. Hence, she claimed maintenance from husband.

6. In above proceedings, husband (present revisionist in Criminal Revision Application No. 128 of 2024) appeared, contested and filed say at Exhibit 10 refuting allegations of ill-treatment as well as demand and he also levelled allegations against her for regularly going to her parents' place and refusing to come back. That, moreover, wife had filed divorce proceedings and the same came to be allowed by order dated 02.09.2023.

7. Learned trial court appreciated the evidence adduced by both parties and also took into account the settled legal precedents and vide judgment and order dated 08.01.2024, partly allowed the maintenance petition. Operative part of the said order reads as under :

“01. Petition is partly allowed.

02. Respondent shall pay Rs.4,000/- per month to petitioner No.1 from the date of this order without claiming set off against the order of interim maintenance which was Rs.8,000/- per month during the pendency of petition.

03. Respondent shall pay Rs.7,000/- per month to the petitioner No.2 towards maintenance allowance from the date of this petition.

04. Respondent shall also pay Rs.5,000/- to the petitioner towards costs of this petition.

05. A copy of this Judgment be supplied to the petitioner, free of costs, as per Section 128 of the Code of Criminal Procedure.”

8. Apparently, above order is of 08.01.2024. Revisionist husband has placed on record appointment order of wife issued by Collector Office, Jalna dated 31.12.2024 to demonstrate that wife has been

selected as a Talathi and she is posted at Tahsil Office, Jalna. Thus, on this count itself, husband claims that above supervening events also dis-entitle wife from seeking any maintenance.

9. In answer to above, learned counsel for wife would submit that, though wife has source of employment, still she has to maintain her daughter and even law is fairly settled that though she has her own independent income, when it is not sufficient, still husband is liable to provide for the same.

CONCLUSION

10. After appreciating the respective sides, admittedly parties seem to have separated and there is decree of divorce dated 02.09.2023. It is also not disputed that parties have a daughter who is apparently in the custody of wife. Initially, on proceedings instituted by wife, learned trial Judge, after appreciating the oral and documentary evidence, seems to have partly allowed the petition allowing maintenance. However, said order is of 08.01.2024 whereas appointment order in favour of wife issued by Collector Office, Jalna is of 31.12.2024, i.e. subsequent one. On Court query, learned counsel for wife would submit that she is merely on probation and that she does not get full salary. There is no force or substance in the above submission. Now wife having bagged employment in

Government service, she definitely has distinct source of income for her own. However, merely on such count, daughter cannot be deprived of maintenance which is essential for her education and future. In view of the above discussion, I proceed to pass the following order :

ORDER

- I. Criminal Revision Application No. 320 of 2024 is hereby dismissed.
- II. Criminal Revision Application No. 128 of 2024 is partly allowed
- III. Clause (02) of the operative part of the impugned order dated 08.01.2024 passed by learned Judge, Family Court, Jalna in Petition No. E-259 of 2021 is hereby quashed and set aside.
- IV. Clause (03) of the operative part of the impugned order dated 08.01.2024 passed by learned Judge, Family Court, Jalna in Petition No. E-259 of 2021 shall remain in force.
- V. Revisionist husband shall continue to pay Rs.7,000/- per month to respondent no.2 in Criminal Revision Application No. 128 of 2024 (daughter) towards maintenance allowance.
- VI. Both the Criminal Revision Applications are accordingly disposed off.

[ABHAY S. WAGHWASE, J.]