



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 177 OF 2022

1. Mohd. Ilyas s/o Mohd. Ismile,
Age : 45 yrs., Occ. Nil,
2. Mohd. Ismile s/o Mohd. Gulam,
Age : 75, Occ. Pensioner.
3. Zulekhabee w/o Mohd. Ismile,
Age : 67 yrs., Occ. Household,
4. Irfan s/o Ismile,
Age : 48 yrs. Occ. Business,
5. Fatema w/o Mohd. Irfan,
Age : 45 yrs., Occ. Household.

All R/o. Peer Burhan Nagar,
Nanded, Tq. and Dist. Nanded.

... Revision Petitioners
[Orig. Non-Applicants]

Versus

1. Rakshanda Farzeen w/o Mohd. Ilyas,
Age : 31 yrs. Occ. Household,
R/o. : At present Adarsh Colony, Purna,
Tq. Purna, Dist. Parbhani.
2. Zunera Fatema D/o Mohd. Ilyas,
Age : 11 yrs. Minor.
3. Zaina Fatema D/o Mohd. Ilyas,
Age : 11 yrs. Minor.

(both respondents No.2 & 3 are minors
U/G of their real mother Rakshanda
Farzeen W/o Mohd. Ilyas i.e.
Respondent No.1)

... Respondents
[Orig. Applicants]

.....
Mr. G. K. Muneshwar, Advocate for the Applicant.
Mr. Mahesh P. Kale, Advocate for Respondent Nos. 1 to 3.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 28.01.2025

Pronounced on : 04.02.2025

ORDER :

1. Revisionists, who are original respondents/non-applicants in Criminal (Misc) Application No. 147 of 2012, are hereby taking exception to the judgment and order dated 02.03.2022 passed by learned Additional Sessions Judge, Parbhani in PWDVA Appeal No. 52 of 2018 modifying order passed by learned J.M.F.C. (Court No.2), Purna.

FACTUAL BACKGROUND

2. Present respondent nos. 1 to 3 instituted Cri. (Misc.) Application No. 147 of 2012 invoking provisions under Section 12, 19 and 20 of the Protection of Women From Domestic Violence Act, setting up several claims. Present revisionist, i.e. non-applicants therein, contested the above application denying entire averments raised therein and urged for rejection of claim. After appreciating the respective cases, learned J.M.F.C was pleased to allow the application

directing present revisionist non-applicant no.1 to pay Rs.3,000/- monthly maintenance to applicants collectively from the date of order along with amount towards rent, cost and compensation.

3. Getting dissatisfied by the above order, PWDVA Appeal No. 52 of 2018 was itself instituted before learned Additional Sessions Judge, Parbhani, i.e. by present respondents, praying to modify the order dated 11.12.2018 seeking grant of maintenance, not from the date of order, but from the date of filing main application, i.e. from 18.09.2012. Again, this was also countered by present revisionist by causing appearance canvassing in favour of the order passed by learned J.M.F.C. After hearing both sides, learned Additional Sessions Judge partly allowed the PWDVA Appeal No. 52 of 2018 by modifying order of learned J.M.F.C. and directing payment of maintenance from the date of application.

4. Heard both sides. The central point for consideration is whether learned trial court was justified in granting maintenance from the date of order or whether learned first appellate court was justified in modifying it and directing maintenance from the date of application. In such background, if provision of Section 125 of Cr.P.C. are visited, it is emerging that the wordings in provision under Section 125(2)

Cr.P.C. suggest conferment of discretion upon learned Magistrate either to grant it from the date of order or from the date of application. However, very recently, in a recent instructive judgment of the Hon'ble Apex Court in the case of ***Rajnesh v. Neha and another*** (2021) 2 SCC 324, after considering the precedents, the Hon'ble Apex Court issued certain detailed guidelines and in reference to the issue about whether maintenance so awarded should be computed from the date of order or whether it should be computed from date of application, it has been observed that it would be appropriate to grant maintenance from the date of application in all cases. Elaborating on the rationale of granting maintenance from the date of application, the Hon'ble Apex Court reasoned that such proposition finds its roots in the very enactment of maintenance legislation with sole objective to enable claimant to overcome the financial crisis after having separated from the person who is obligated to maintain.

5. Resultantly, in the light of above law and guidelines laid down by the highest court of the land, the impugned order passed by learned Additional Sessions Judge-2, Parbhani dated 02.03.2022 cannot be faulted at. Resultantly, there being no merits in the revision, same is required to be rejected. Hence, I proceed to pass the following order :

ORDER

The Criminal Revision Application is hereby rejected.

[ABHAY S. WAGHWASE, J.]

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