



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 308 OF 2023

Prasad S/o Bhaskar Bhivsane

...Applicant

Versus

Varsha W/o. Prasad Bhivsane & Ors.

...Respondents

WITH

CRIMINAL WRIT PETITION NO. 1456 OF 2022

Mr. Naik Dhananjay A., Advocate for the Applicant.

Mr. Khan Mohsin Khan Masood (Through V.C.), Advocate for the Respondents.

CORAM : ABHAY J. MANTRI, J.

DATE : OCTOBER 10, 2025

PER COURT :

1. The learned advocate for the applicant submitted that the compromise took place between the parties. Accordingly, they have tendered consent terms before the learned Family Court, and therefore, he submitted that the matter be adjourned till finalisation of the consent terms. However, I do not find substance in his contention, as the parties have tendered their consent terms before the Family Court on 17th August 2024, i.e. prior to one year, the same was verified, read and recorded by the learned Judge, on the same date, therefore question of grant of further time in the matter does not arise, as the matter is settled as such there is no need to keep application pending.

2. The learned advocate for the applicant is requested to argue the matter. However, he is not ready to do so and submitted that the Court may pass an appropriate order. Considering his conduct in not arguing the matter, it would be appropriate to proceed with the matter on its merits.

3. Despite his unusual conduct, I have gone through the impugned judgment and orders. It appears that the respondents, the wife and daughters, have filed an application before the Family Court under Section 125 of the Code of Criminal Procedure for the grant of maintenance.

4. It also appears from paragraphs 7 and 8 of the judgment that the applicant appeared before the Family Court, the matter was referred to a counsellor, but the matter could not be settled. Thereafter, the applicant also remained absent and failed to file a say/written statement. Therefore, on 21st February 2021, the matter proceeded without the applicant's say/reply. After considering the evidence on record in paragraph No.15, the learned Judge has categorically observed that the applicant is working as an Assistant Manager in the Finance Company and receives a salary of Rs. 50,000/- p.m. He also has 2H 25R irrigated land at Gut No.86 at village Hiwara, and he earned ₹ 10,00,000/- p.a. income from the agricultural land. The evidence adduced by the respondent No.1 remained unchallenged and therefore, the Court held that there is no reason to disbelieve her testimony in that regard and having considered the said income, the learned Judge partly allowed the application of the applicant and granted

maintenance of ₹ 5,000/- per month to respondent No.1 wife and ₹ 5,000/- per month to respondent Nos.2 and 3 daughters each from the date of application till they attained the majority.

5. It is pertinent to note that Section 125 of the CrPC is a social welfare provision, which must be subjected to an extensive beneficial concern, and this understanding has been extended to maintenance. Similarly, it must be borne in mind that the right to maintenance under Section 125 of the CrPC is not a benefit received by the wife and daughters, but rather the legal or moral duty owed by the husband/father to maintain his wife and daughters. Undisputably, the wife and daughters do not reside with the husband/father, and the husband/father does not pay them anything for their maintenance; this itself is sufficient to grant maintenance to them.

6. It is pertinent to note that it is an obligation of the husband/father to maintain his wife and children; he cannot be permitted to plead that he is unable to maintain them, due to financial constraints, as long as he is capable of earning. Moreover, judicial note can be taken that there is an escalation in prices of the essential commodities, and therefore, it is also very difficult for the respondents to survive without any maintenance to satisfy their daily needs.

7. Perused the said consent terms, it appears that in the consent terms, the applicant has admitted that he has 3 H 6 R land, out of which he

is ready to transfer 1 Acre 20 Guntha agricultural land in favour of the respondents. It is further evident that the said consent terms were verified, read and recorded by the learned Judge, Family Court, one year ago. Therefore, the parties can act based on the consent terms if any terms and conditions are not complied with. Then, the other side will take the necessary steps to comply with the same. Therefore, I do not find the substance to keep the application pending, and accordingly, the application, being devoid of merits, is dismissed with costs.

5. Needless to clarify, the learned Judge of the Family Court will not be influenced by this order while dealing with the consent terms and petition before it.

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1. The learned advocate for the petitioner submitted that the petition became infructuous during its pendency, and nothing survived. His statement is accepted.

2. In view of the statement, the petition is dismissed as infructuous.

(ABHAY J. MANTRI, J.)