



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 347 OF 2023

Shaikh Taher s/o Shaikh Karim
Age : 50 years, Occu : Labour,
R/o Ranjangaon (Pol), Tq. Gangapur,
Dist. Aurangabad

.... **Applicant**

VERSUS

Rehana Begum w/o Shaikh Taher,
Age : 40 years, Occu : Agril,
R/o : C/o Yakub Burhan Shaikh
R/o : Mategaon, Tq. Kannad,
Dist. Aurangabad

..... **Respondent**

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Advocate for Applicant : Mr. Sameer F. Patel
Advocate for Respondent : Ms. Kalpana Sonpawale Kulkarni
(Appointed)

...

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : December 11, 2024
PRONOUNCED ON : January 10, 2025

JUDGMENT :-

1. In this revision, there is challenge to order dated 10.08.2023 passed by the Principal Judge, Family Court, Aurangabad in Cri. Misc. Application No. 3 of 2020.

2. Learned counsel for revisionist submitted that present revisionist is the husband of respondent. Respondent-wife has set up false claim. That revisionist works as a labour and has no much income. That he has his own parents to take care of. In spite of so, learned Trial Court has accepted the case of respondent-wife and has granted maintenance. He further pointed out that he also has to take care of one mentally retarded son. That, wife has left his company without sufficient cause and she is staying with their other son, who is a young boy and he has own source of income. He has been as many as 20 she-goats and there is sufficient income from the said source. That photographs of the same were placed before learned Trial Court, but learned Trial Court failed to consider and appreciate the same. Lastly, he submitted that revisionist is old-aged person and is now unable to render labour work and earn to meet his own liability and also to provide maintenance to respondent-wife. For all above reasons, he prays to allow the revision application and set aside the order of learned Trial Court.

3. Learned counsel for the respondent, appointed through Legal Aid, submitted that learned Family Court has rightly appreciated the case put forth by respondent-wife. She further

submitted that learned Family Court has also considered the liability and responsibility of husband and wife, who was constrained to reside separately and was neglected to be maintained. She pointed out that, there is no distinct maintenance granted to son and whatever maintenance granted by Family Court is only for wife. That on appreciation of evidence, learned Trial Court has rightly decided the entitlement as well as the quantum of maintenance. Hence, by dismissing the present revision, she prays not to disturb the impugned order.

4. Preset revision is at the instance of husband of respondent wife, who takes exception to the order passed by learned Principal Judge, Family Court, Aurangabad on application of respondent under Section 127 of the CrPC seeking maintenance. It seems that by order dated 30.11.2015, present respondent was the beneficiary of maintenance to the tune of Rs.1,200/- per month. Before Family Court, in Criminal Misc. Application No 3 of 2020, respondent set up a claim that said maintenance is insufficient for her maintenance primarily due to escalation in cost of living and secondly, their minor son has attained majority and therefore, finance is required for his education.

5. Above application was opposed by present revisionist husband by filing say at Exh. 24, thereby denying increase in his income. According to him, he maintains one of their two children who is differently abled. That, she had left his company without sufficient cause and that in spite of his efforts, she had not returned back. He also refuted the assertions about rise in cost of living.

6. After considering submissions of both the sides, learned Trial Court, in the backdrop of scope and object of Section 127 of the CrPC and settled legal provisions, arrived at the conclusion that there is indeed rise in cost of living i.e. for bare subsistence and that there being change in circumstances since passing of previous order, and accordingly, allowed the said application.

7. Now, before this Court, revisionist-husband finds fault in the impugned order on the ground that there is erroneous appreciation of evidence. Though he has set up a case that respondent-wife had independent earning source by way of running business of agricultural animal, it transpires that by order dated 30.11.2015, from initial maintenance of Rs. 800/-, it was taken up to Rs. 1,200/-. Proceedings under Section 125 of CrPC seem to be initiated by respondent-wife in the year 2020 i.e. after five years on

the ground that maintenance needs to be enhanced for above reasons.

8. Learned Trial Court has appreciated the cases of each side and has partly allowed the application directing present revisionist to pay enhanced maintenance to the tune of Rs. 2,500/- and to pay cost. Such quantum, by no means, can be said to be exorbitant, more particularly, after a long gap of five years, when apparently everybody experiences rise in cost of bare subsistence. Therefore, there is no reason to interfere in the impugned order. There being no merits in the case, present revision application deserves to be dismissed. Hence, following order.

ORDER

Criminal Revision Application is dismissed.

[ABHAY S. WAGHWASE, J.]