



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO. 172 OF 2024

Mangesh S/o. Mahadeo Jadhav,
Age : 33 Years, Occu. : Service,
R/o. Prashant Nagar, Kanadi Road,
Kaij, Tq. Kaij, Dist. Beed.

... Applicant

VERSUS

Maya W/o. Mangesh Jadhav,
Age : 29 Years, Occu. : H.H. & Private Service,
R/o. Vishal Nivas, Prakash Nagar,
Latur, Tq. & Dist. Latur.

... Respondent

.....
Mr. N.D. Kendre, Advocate for Applicant
Mr. V.P. Sawant, Advocate for Respondent (Appointed)

.....

CORAM : ABHAY S. WAGHWASE, J.

Dated : 03rd February 2025

ORDER :

1. The revisionist-husband herein takes exception to the judgment and order dated 03.05.2024, passed by learned Family Court, Latur, in petition No.E-169 of 2021, directing the maintenance in favour of the respondent.

2. Learned counsel for the revisionist submitted that, the present revisionist and respondent got married in May 2018 and after one month, there are allegations of cruelty and being driven out. Learned counsel pointed out that, after the respondent, on her, left the company of the revisionist, she set up claim of maintenance by instituting proceedings under Section 125 of Cr.P.C. That, said claim was contested. That, as the revisionist is mere primary teacher and after necessary deductions under various heads, he receives only rupees ten thousand and same amount as take home salary. He has responsibility of his old aged parents to take care of. Moreover, the respondent was not at all entitled the maintenance as she was living adulterous life. Learned counsel pointed out that, under Section 125(4) of Cr.P.C., wife is not entitled to maintenance from her husband when she is living adulterous life. That, there was material in the form of whats app, but the same has not been considered by learned family court.

3. Learned counsel further pointed out that, moreover, the respondent-wife instituted other proceedings against the present revisionist and was getting maintenance to the tune of rupees three thousand and rupees four thousand, respectively. That, she is also earning by way of taking tuition in which there are many admissions,

but, according to learned counsel, same has not been considered and appreciated by the learned family court and hence, learned counsel seeks indulgence by setting aside the impugned judgment and order.

4. While opposing the revision application, learned counsel for the respondent pointed out that, learned family court, in its judgment, has correctly appreciated the available evidence. That, there was cruelty as well as neglect to maintain and therefore, maintenance claim was set up. That, taking into consideration the salary of the revisionist, learned trial court has granted the maintenance. Learned counsel took this court through the observations of learned family court in para.50 regarding the net salary of the revisionist after deductions. He supports the evidence and conclusion of the learned family court and prays to dismiss the application.

5. After considering the submissions of both sides, it is seen that, the present revisionist, by way of instant revision, has been taken exception to the judgment and order passed by learned Family Court, Latur in Petition No.E-169 of 2021, dated 03.05.2024. The present revisionist and present respondent appears to be husband and wife, who got married in 2018. There is no dispute that revisionist is

working as a primary teacher in Zilla Parishad School. Out of marital discord, parties seems to have separated. The respondent-wife claims that, she has been ousted by raising suspicion on character and she is neglected for maintain. Be it so, admittedly, she is residing separately.

6. There seems volley of allegations against each side. The respondent-wife set up a claim on the ground that, she has no source of income to maintain herself and she has been neglected. On the other hand, the revisionist-husband alleged that the respondent-wife is living adulterous life. Learned counsel for the revisionist pointed out that, in learned family court, he placed on record some whats app material in support of his such assertions. However, according to him, the same has not been appreciated by learned family court.

7. The main point urged before this court is that, in spite of whats app material, suggesting wife living adulterous life, there is failure to appreciate the same and more particularly, Section 125(4) of Cr.P.C bars maintenance claim when wife lives adulterous life. However, on court query raised by this court, whether said electronic evidence from his side is supported by way of certificate under Section 65(b) of the Evidence Act, to which he fairly conceded that, it is not placed on record and even was not placed before learned family

court. Therefore, it is clearly emerging that, assertions of the respondent-wife living adulterous life have no foundation for consideration.

8. As regards to income of the revisionist is concerned, he has not denied that, he works as a primary teacher in Zilla Parishad School and thus, a salaried person. His contention is that, out of his salary to the tune of rupees sixty thousand, there are deductions of over rupees forty five thousands and odd amount under various heads and only net take home salary which remains is said to be rupees ten thousand and some odd amount and that, he has his own responsibilities too.

9. Learned counsel for the respondent pointed out that, learned family court has also considered and appreciated this aspect and granted maintenance. He invited attention of this court to para.50 of the impugned judgment. On visiting the same, it does emerge that, after appreciating material placed before learned family court, more particularly, salary slip of month of September, the revisionist take home salary is over rupees thirty five thousand and not ten thousand as claimed by learned counsel. Therefore, when there is no issue and wife is residing separately and considering the

current expenses which is necessary for self sustenance, quantum awarded cannot be said to be exorbitant. No case being made out so as to interfere in the impugned judgment, the application deserves to be rejected. Hence, the order.

ORDER

The criminal revision application stands rejected.

[ABHAY S. WAGHWASE, J.]

asd