

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.610 OF 2024

Nilesh Mithalal Jain & Ors.	...Applicants
<i>Versus</i>	
Madhuri Nilesh Jain & Anr.	...Respondents

Mr. Kunal Ambulkar a/w. Mr. Prateek Jain i/b. Malvi Ranchoddas & Co., for the Applicants.
Mr. K. H. Holambe Patil i/b. K. K. Holambe Patil, for the Respondent No.1.
Mr. S. S. Ghag, APP, for the Respondent No.2-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 16th APRIL 2025

PC:-

1. Heard Mr. Ambulkar, learned Counsel appearing for the Applicants and Mr. Holambe Patil, learned Counsel appearing for the Respondent No.1.

2. On 9th April 2025 this Court passed the following order:

“1. Heard Mr. Kunal Ambulkar, for the Applicants, Mr. K.H. Holambe Patil, for the Respondent No.1 and Mr. S. S. Ghag, APP for the Respondent State.

2. Mr. Kunal Ambulkar, learned Counsel for the Applicants points out photocopies of bank account statement of the Applicant from pages 149 to 151 showing that the Respondent wife is getting salary

from two institutions namely Momaya Life Sciences and Grand Institute Consultancy.

3. The Respondent has filed Affidavit-in-Reply inter alia stating that she cannot offer any remark on the documents produced until and unless original of the same is produced for inspection and verification.

4. It is clear that the Respondent has not even denied that the said documents are not part of her account statement. It is the duty of every litigant to come with clean hands before the Court.

5. Accordingly, the Respondent shall file additional Affidavit on or before 15th April 2025 explaining the said bank account statement.

6. Stand over to 16th April 2025. To be shown in 'Supplementary Board'."

3. Pursuant to the said order dated 9th April 2025, additional affidavit-in-reply dated 9th April 2025 of the Respondent No.1- Madhuri Nilesh Jain is filed *inter alia* admitting that the Respondent No.1 is working as per the following details:

Sr. No.	Period	Employer	Salary (per month)
1.	19/05/2021 to 09/09/2021	"ddreg"-Pharma Consulting Company	Rs. 27,000/-
2.	14/06/2021 to 30/11/2022	Brand Institute	235\$ (Approximately Rs.20,000)
3.	08/11/2021 to 18/11/2022	Momaja Company (ELC Company)	Rs. 37,000/-
5.	Presently	-	Rs.58,000/-

4. In this background of the matter, it is required to be noted that the Respondent No.1 has filed affidavit-in-reply on 9th November 2022 in Criminal Appeal (D.V) No.24 of 2021 before the learned Sessions Court, Mumbai *inter alia* stating as follows:

“With reference to Para No.2, the Respondent deny that, upon inquiring with common friends and family members, he has learnt that she is working in a company namely Momaja Life Sciences India Pvt. Ltd and gaining salary of Rs.40,000/- approx., since June 2021, as falsely alleged. The Respondent hereby puts the Applicant to give strict proof thereof.”

Thus, it is clear that the Respondent No.1 has not disclosed her true income and in fact, has made false statement.

5. In fact, the factual position on record also shows that the Applicant has also attempted to conceal his income.

6. In view of above, the impugned order dated 11th January 2021 passed by the learned Additional Chief Metropolitan Magistrate, 31st Court, Vikhroli, Mumbai below Interim Maintenance Application bearing Exhibit-3 in C.C. NO.75/DV/2020 as well as order dated 23rd September 2024

passed by the learned Additional Sessions Judge, Mazgaon, Mumbai in Criminal Appeal (D.V) No.24 of 2021 are quashed and set aside. The said Interim Maintenance Application bearing Exhibit-3 in C.C. No.75/DV/2020 is restored to the file of learned Additional Chief Metropolitan Magistrate, 31st Court, Vikhroli, Mumbai.

7. Both, the Applicant No.1 and the Respondent No.1 to file before the learned Additional Chief Metropolitan Magistrate affidavits disclosing their income. Learned Additional Chief Metropolitan Magistrate, 31st Court, Vikhroli, Mumbai to decide the said Application bearing Exhibit-3 in C.C. No.75/DV/2020 afresh.

8. However, Mr. Ambulkar, learned Counsel appearing for the Applicants, on instructions of the Applicant No.1, states that without prejudice to the rights and contentions of the Applicants, amount of Rs.10,000/- per month will be paid to the Respondent No.1 towards interim maintenance. It is clarified that the said payment is without prejudice to the rights and contentions of the Applicants and the Respondent No.1. The Respondent No.1 shall

file an undertaking in this Court within a period of four weeks from today undertaking that if the learned Additional Chief Metropolitan Magistrate passes the order rejecting the said Interim Maintenance Application bearing Exhibit-3 in C.C. No.75/DV/2020 then, the said amount of Rs.10,000/- per month paid by the Applicant No.1 shall be refunded by the Respondent No.1 with interest at the rate of 6% per annum within a period of four weeks from the date of order of the learned Additional Chief Metropolitan Magistrate.

9. Learned Additional Chief Metropolitan Magistrate, 31st Court, Vikhroli, Mumbai is requested to dispose of the said Interim Maintenance Application bearing Exhibit-3 in C.C. No.75/DV/2020 within a period of four months from today.

10. Accordingly, the Criminal Revision Application is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]