



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL REVISION APPLICATION NO.16 OF 2025

Shri Rahul s/o Arun Tayade,
Aged about 34 years, Occu: Jobless,
R/o Vaishnavi Row House, B Block No.1,
Plot No. 52/53, Jijamata Colony, Behind
Tuljabhavani Mandir, Shivajinagar, Satpur,
Nashik-422012
P.S. Gangapur, Nashik.

...APPLICANT

VERSUS

1. Megha w/o Rahul Tayade,
Maiden name Megha d/o Arun Wankhede,
Aged about 32 years, Occupation – Household,
2. Shivam s/o Rahul Tayade,
Aged about 7 years, Occupation – Student,
Minor through mother Megha Tayade,
Both r/o Behind Kachipura Police Chouki,
Opposite Krushikunj Guest House,
Kachipura, Ramdaspath, Nagpur-440012

...NON-APPLICANTS

Mr. C.F. Bhagwani, Advocate for the applicant.

Ms A. Paunikar, Advocate h/f Mr. S.V. Sirpurkar, Advocate for the
non-applicants.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : JANUARY 31, 2025.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. By this application, the applicant has challenged the order of the Family Court No.2, Nagpur dated 12/06/2023 granting maintenance Rs.10,000/- to non-applicant No.1 and Rs.5000/- to non-applicant No.2

3. As per the contention of the applicant, non-applicant No.1 is his legally wedded wife. Their marriage was performed on 12/12/2014. Thereafter the non-applicant No.1 resumed cohabitation at his house; however, there was a matrimonial dispute between them, and therefore, she left the house and started residing at her parents house and she filed domestic violence proceeding before the Family Court, Nagpur under Section 125 of Criminal Procedure Code bearing No.E-360/2020. The notice of the said petition was served but due to Covid-19 pandemic restrictions, he could not appear before the Court and file his reply, and therefore, no written statement order was passed on 22/02/2021 and the matter was proceeded without his written statement. He could not adduce his evidence also and after hearing the non-applicant only, the maintenance order @ Rs.10,000/- for non-applicant No.1 and Rs.5000/- to non-applicant No.2 was passed along with the costs of Rs.10,000/-. He submitted that due to Covid-19 pandemic situation he could not appear before the Court and file his written statement as there were restrictions on the movement. This fact is not considered by the Family

Court and without giving an opportunity, the order is passed by the Family Court, Nagpur. He also placed on record the roznama to support his contention and prays for the remand of the matter.

4. Learned Counsel for the applicant endorsed the same contention.

5. *Per contra*, learned Counsel for the non-applicants strongly opposed the application on the ground that arrears of the amount are to the extent of Rs.9,00,000/-. The non-applicant No.1 is not having any source of income. She has to incur the expenses towards her livelihood as well as livelihood of her son and towards his education expenses. If matter is again remanded back to the Family Court then the non-applicant No.1 will not receive any amount and it would be difficult for her to incur the expenses toward the litigation also. For all above these ground, the revision deserves to be dismissed. She submitted that after sufficient opportunity, the applicant failed to contest the application and thereafter the order was passed. So no illegality is committed by the Family Court and in view of that, the revision application deserves to be dismissed.

6. I have heard learned Counsel for both the sides. Perused the roznama from which it reveals that the roznama shows that on

16/12/2020 the non-applicant No.1 and her Advocate was recorded as absent and notice was issued to the present applicant returnable on 22/02/2021. On 22/02/2021, the parties were absent and order was passed on Exhibit-1 and no written statement order was passed. Said order was corrected on 15/06/2021 mentioning that similar petition No.E-360/19 is pending and filed by the same Advocate, therefore, there is inadvertent mistake while dictating the roznama and again notices were issued but as applicant failed to appear no written statement order was passed on 09/08/2021. Thereafter matter was proceeded by recording the evidence of the applicant and the order was passed. There is no dispute as to the factual aspect that during that period there were Covid-19 restrictions and parties were unable to attend the Court proceedings, and therefore, the Family Court, Nagpur ought to have given an opportunity to the present applicant to adduce this evidence. Admittedly, the said opportunity is not given to the present applicant before passing final order.

7. Learned Counsel for the applicant submitted that against the arrears amount of Rs.9,00,000/- only Rs.46,000/- are paid which is disputed by the learned Counsel for the non-applicants. She submitted that only Rs.31,000/- are paid. Considering the huge arrears against the present applicant it would be appropriate to direct the applicant to

deposit the at least 50% of the amount towards the arrears and monthly maintenance @ Rs.7000/- to non-applicant No.1 and Rs.3000/- to non-applicant No.2 till the disposal of the application.

8. For all above reasons, the petition No.E-360/2020 is remanded back to its original stage of filing written statement to the Family Court No.2, Nagpur.

9. The applicant shall appear before the Family Court, Nagpur on 07/02/2025 and shall file his written submission.

10. The Family Court shall give an opportunity to both the sides to adduce the evidence.

11. The applicant shall deposit 50% of the arrears within six weeks before this Court and the non-applicants are at liberty to withdraw the same. The applicant shall also deposit monthly maintenance @ Rs.7000/- to non-applicant No.1 and Rs.3000/- to non-applicant No.2 before this Court on or before 10th of every month.

12. On failure to pay the monthly maintenance amount, the non-applicants are at liberty to recover the entire amount by filing the appropriate proceedings.

13. The parties shall cooperate to the Family Court, Nagpur to dispose of the main application at the earliest.

14. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*