



(1)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO.53 OF 2024

1. Swapnil s/o Sadashiv Chavan,
Age : 31 Years, Occupation : Labour,
R/o. At Bibi, Ward No.1,
Tahsil Lonar, District Buldhana.

.... APPLICANT

// VERSUS //

1. Sau. Payal w/o Swapnil Chavan,
Age : 29 Years, Occupation : Private,
2. Ku. Astha Swapnil Chavan (minor),
Aged about 3 Years, Occupation : Nil,
Respondent No.2 is Minor, through
her mother Sau. Payal Swapnil Chavan,
Both R/o C/o Vilas Motilal Rathod,
Saibaba Nagar, Godhni,
Tahsil and District Yavatmal.

... NON-APPLICANTS

Mr. R. A. Biranware, Counsel for the applicant.

Ms. P. N. Lakhani, Counsel along with Mr. M. P. Kariya,
Counsel for the non-applicants.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 30.07.2025

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. By preferring this revision application, the applicant has challenged the judgment and order of maintenance passed by the learned Family Court, Yavatmal, in Petition No. E-130/2021 dated 08.01.2024. The present applicant and the non-applicant No.1 are the husband and wife. Their marriage was solemnized as per Hindu

(2)

rites and customs on 07.07.2018 at Yavatmal. Out of the said wedlock, non-applicant No.2 was begotten. After marriage, the non-applicant No.1 resumed the cohabitation at the house of the present applicant. It is alleged that she was not treated well by the present applicant and his family members and she was treated with cruelty mentally and physically. Even after the birth of the child, the conduct of the present applicant did not change and he was abusing and beating her and therefore, she constrained to leave the matrimonial house. It is further alleged that on 09.06.2020 on the instigation of the other family members, the applicant had caused one injury to the non-applicant No.1. Due to the harassment given by the present applicant and his family members, she left for her parental home. On 21.11.2020, non-applicant No.1 along with her relatives attempted to join the company of the present applicant and present applicant has neglected and refused to maintain her and therefore, she constrained to file an application for grant of maintenance under Section 125 of the Code of Criminal Procedure. As per her contention, the present applicant is working as an Electrical Engineer and earning handsome amount. He is also having his own house at village Bibi, Taluka Lonar, District Buldhana. On the contrary, she is not having any income and therefore, she is completely dependent upon the present applicant. Present applicant has not made any provision for her maintenance and therefore, she is residing at the mercy of her parents.

(3)

4. The said application is resisted by the present applicant by filing written statement vide Exh.19. He has denied all the adverse allegations made against him, however, admitted the relationship with the non-applicants. He has also denied that he has treated the non-applicant No.1 with mental and physical cruelty.

5. In the light of the controversial pleadings, in order to establish the claim, the non-applicant No.1 has entered into the witness box and filed an affidavit of examination-in-chief vide Exh.21. She has disclosed her evidence and reiterated the contentions. In her evidence, she has specifically stated that after the marriage, she has treated with cruelty and she has no source of income. She was constrained to leave the matrimonial house as she was not taken care by the present applicant and she categorically stated that since June 2020, the applicant has not made any provision for her maintenance. Whereas the present applicant, who is an Electrical Engineer highly qualified person and drawing handsome income, however, he has not provided any provision for her maintenance. The present applicant has also adduced his evidence. On appreciation of evidence, the learned Family Court came to the conclusion that the applicant is having sufficient means to pay the maintenance amount and thereby

(4)

granted the maintenance at the rate of Rs.7,500/- per month to the non-applicant No.1 and 7,500/- to the non-applicant No.2.

6. Being aggrieved and dissatisfied with the same, the present revision application is filed on the ground that the learned Family Court has not considered that there is no evidence as to the income of the present applicant and on the basis of the guesswork, the amount of maintenance was granted which is excessive, exorbitant and harsh one.

7. Heard learned Counsel for the applicant, who reiterated the contentions and submitted that though the applicant is an Electrical Engineer, but he is serving in a private firm and drawing salary of Rs.11,000/-. Thus, he has no sufficient means to pay the maintenance at the rate of Rs.7,500/- per month to the non-applicants. He prayed for the modification of the order as well as quashing of the said order.

8. Learned Counsel for the non-applicants supported the judgment of the learned Family Court and submitted that as the applicant failed to adduce any evidence as to his income, however, it is an admitted position that he is Electrical Engineer by profession and therefore, learned Family Court has considered this aspect and granted maintenance at the rate of Rs.7,500/- each and therefore, no interference is called for.

(5)

9. After hearing both sides and on perusal of the evidence on record which is adduced in support of the contentions raised by both parties. On perusal of the evidence of the non-applicant No.1, who is the original applicant, it discloses that after marriage, she resumed the cohabitation, but as she was not treated well and therefore, she constrained to leave at her matrimonial house at the mercy of her parents. Admittedly, there is no evidence to show that after she left the matrimonial house any provision was made for the maintenance either of the non-applicant No.1 or non-applicant No.2. It is undisputed that the applicant is an Electrical Engineer and he has not made any provisions for her maintenance. Though the non-applicant No.1 was cross-examined at length by the learned Counsel for the present applicant, but nothing incriminating is brought on record to show that there was any other reason for the non-applicant No.1 to leave the matrimonial house. On the contrary, her evidence shows that as she was not treated well and therefore, she was constrained to leave the matrimonial house. Thus, after considering this fact, the Family Court has observed that she was refused and neglected and therefore, she is entitled for maintenance.

10. Coming to the next aspect of the grant of maintenance, it is not in dispute that the present applicant is an Electrical Engineer. However, neither the non-applicant No.1, who is the

(6)

original applicant or the present applicant have adduced any evidence as to the exact income of the present applicant. However, the fact that he is Engineer by profession remained unchallenged. It is also unchallenged that the parents of the present applicant having agricultural land standing in the name of the father of the present applicant. Admittedly, the applicant has not disclosed his true income before the Family Court and therefore, the Family Court has to take assistance of guesswork, considering his educational qualification and therefore, the Family Court has considered his income at the rate of Rs.60,000/-. Even it is accepted that he was not earning the amount of Rs.60,000/-, but considering his profession, he is Electrical Engineer, at the most, even on the basis of guesswork it is held that he was earning Rs.35,000/- to Rs.40,000/- then also the amount granted by the learned Family Court appears to be reasonable and proper one.

11. It is now well settled that the wife is having right to lead her life as per the status of her husband. This aspect is considered by the Hon'ble Apex Court in the various decisions in the case of **Kiran Jyot Maini Vs. Anish Pramod Patel** reported in **(2024) 7 SCR 942** wherein the Hon'ble Apex Court has considered the facts and observes as follows:

"The status of the parties is a significant factor, encompassing their social standing, lifestyle, and financial background. The

(7)

reasonable needs of the wife and dependent children must be assessed, including costs for food, clothing, shelter, education, and medical expenses. The applicant's educational and professional qualifications, as well as their employment history, play a crucial role in evaluating their potential for self-sufficiency. If the applicant has any independent source of income or owns property, this will also be taken into account to determine if it is sufficient to maintain the same standard of living experienced during the marriage. Additionally, the court considers whether the applicant had to sacrifice employment opportunities for family responsibilities, such as child-rearing or caring for elderly family members, which may have impacted their career prospects."

12. In the case of **Rajnesh Vs. Neha and another** reported in **(2021) 2 SCC 324**, elaborated upon the broad criteria and the factors to be considered for determining the quantum of maintenance. The Hon'ble Apex Court emphasizes that there is no fixed formula for calculating maintenance amount; instead, it should be based on a balanced consideration of various factors. These factors include and are illustrative but are not limited or exhaustive. They are as under:

- i. Status of the parties, social and financial.
- ii. Reasonable needs of the wife and dependent children.
- iii. Qualifications and employment status of the parties.
- iv. Independent income or assets owned by the parties.
- v. Maintain standard of living as in the matrimonial home.

(8)

- vi. Any employment sacrifices made for family responsibilities.
- vii. Reasonable litigation costs for a non-working wife.
- viii. Financial capacity of husband, his income, maintenance obligations, and liabilities.

13. In the light of the above factors narrated by the Hon'ble Apex Court if the facts of the present case are taken into consideration, admittedly, the Family Court has granted maintenance to the non-applicant by considering that the applicant is Electrical Engineer and per his status the wife is having right to lead the life.

14. In addition to that, the amount of Rs.7,500/- was granted towards the costs. The applicant is undisputedly qualified as Electrical Engineer though there is no exact income came on record, but considering the status and qualification of the applicant, even it is considered that he is working in private firm and drawing salary of Rs.35,000/- to Rs.40,000/-, then also the amount of maintenance granted by the Family Court appears to be reasonable and just one. Nowadays, the prices of essential commodities are touching to the sky and the non-applicant wife has to incur the expenses towards the education, maintenance, clothing of the child as well as towards her expenses, and therefore, the Court has to consider this fact and after balancing all these factors, it would be

(9)

appropriate to say that the amount granted towards the maintenance is just and proper and no interference is called for. In view of that, the revision application being devoid of merit, and liable to be dismissed. Accordingly, the revision is **dismissed**.

(URMILA JOSHI-PHALKE, J.)

Sarkate.