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

CRIMINAL REVISION APPLICATION NO.86 OF 2024

Mahendra s/o Chindhuji Gajbhiye,
Aged about 44 Years, Occupation : Service,
R/o. Plot No.137, Bhim Nagar,
Galli No.4, Parvati Nagar,
Rameshwari, Nagpur – 440027.

.... APPLICANT

// VERSUS //

1. Sau. Karuna Mahendra Gajbhiye,
(Maiden Name Karuna D/o Gulabrao Tagde)
Aged about 39 Years, Occupation : Advocate.

2. Ku. Trisha Mahendra Gajbhiye,
Aged about 6 Years, Occupation : Nil.,
Through Natural Guadian mother
Sau. Karuna Mahendra Gajbhiye
Both non-applicant 1 and 2 are
R/o. C/o. Shri Gulabrao R. Tagde
At Chikhli (Maina), Taluka Katol,
District Nagpur.

.... NON-APPLICANTS.

Mr. A. A. Pannase, Counsel for the applicant.

Mr. P. S. Sahare, Counsel for the non-applicants.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 07.08.2025

ORAL JUDGMENT :

1. Heard.

2. **Admit.**

3. By this revision application, the applicant is challenging the order of grant of maintenance at the rate of Rs.10,000/- per month to the non-applicant No.1 and Rs.5,000/- per month to the non-applicant No.2 from 26.07.2018 till 10.01.2024 and thereafter

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at the rate of Rs.15,000/- per month to the non-applicant No.1 and Rs.10,000/- per month to the non-applicant No.2 in Petition No. E-410/2018 dated 10.01.2024.

4. Brief facts which are necessary for the disposal of the revision application are as under:

The applicant and the non-applicant No.1 were married on 09.02.2016 at Nagpur as per the rites and customs and out of the said wedlock, the non-applicant No.1 begotten one daughter i.e. non-applicant No.2. As per the allegation, after marriage, she resumed the cohabitation at the house of the present applicant. Initially, she was treated well, but thereafter the applicant started suspecting her character and was not allowing her to talk with the neighbours and after a few days of the marriage, he left her alone at the matrimonial house and went to Mumbai to join his duty. He is serving as an Engineer in the Railway Department. It is further alleged by her that the applicant's mother used to torture her mentally and physically on the ground of domestic violence. After delivery, when she joined the company of the present applicant at her matrimonial house, she was not allowed to cohabit and therefore, she constrained to leave the matrimonial house. It is further contended that though she has attempted to cohabit with the present applicant, but it was the present applicant and his family members who refused to maintain her. After she left the

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matrimonial house, no provisions were made for her maintenance and for the maintenance of the non-applicant No.2 and therefore, she constrained to file an application for grant of maintenance.

5. The said application is strongly opposed by the present applicant on the ground that in fact, the non-applicant No.1 has neglected him and refused to stay along with him and therefore, she is not entitled for maintenance. It is further contended that she is well qualified lady who has completed her LL.M. and practicing lawyer. She has sufficient means to maintain herself and therefore, she is not entitled for any maintenance. It is submitted that she is drawing a handsome amount by practicing the law and therefore, the application deserves to be dismissed, but the Family Court has not considered the same and erroneously awarded the maintenance amount, which is a harsh and exorbitant one. It is further contended that the present applicant was shouldering the responsibility of his parents as well as his brother, and therefore, he has no sufficient means to grant maintenance at the rate granted by the Family Court.

6. In support of the contention, the non-applicant No.1 examined herself and reiterated the contentions as well as she has also examined her father. The applicant has also adduced his evidence and reiterated the contentions, as per the contentions raised in his revision application. After hearing both sides and on

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perusal of the evidence, the learned Family Court considered that the applicant is having sufficient means to grant separate maintenance. On the contrary, there is no evidence on record to show that the non-applicant No.1 is earning some amount by practicing her law practice and by observing the same, the maintenance was granted as aforesaid.

7. Being aggrieved and dissatisfied with the same, the present revision application was filed by the present applicant on the ground that the learned Family Court has not considered that there was no refusal and neglect on the part of the present applicant. On the contrary, she herself left the matrimonial house and started residing at her parent's house. There is no reasonable and justifiable cause for not joining the company of the applicant. Moreover, she has sufficient means to maintain herself as she is practicing law and therefore, she is not entitled for maintenance.

8. Heard learned Counsel for the applicant, who reiterated the said contentions and invited my attention towards the evidence of the non-applicant No.1 and submitted that during cross-examination, she admitted that she left the house of the present applicant at her own and he submitted that the evidence of her father also supports the same. Thus, it is sufficient to show that it was the non-applicant No.1 who had left the house and not the present applicant constrained her to leave the matrimonial

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house. As far as the economic condition is concerned, she is practicing law. It is an admitted position that she has completed her LL.M. and therefore, she is not entitled for any maintenance amount.

9. Per contra, learned Counsel for the non-applicants strongly opposed the said contentions and submitted that merely because she is qualified as LL.M. is not sufficient to say that she is having sufficient means to maintain herself. In fact, there is no evidence on record to show that she is earning some amount which is sufficient to maintain herself and her child and therefore, the learned Family Court has rightly considered this issue and granted the maintenance by considering the income of the present applicant. Thus, the revision application itself is devoid of merit and liable to be dismissed.

10. After hearing both sides and on perusal of the entire evidence on record it is undisputed that the matrimonial tie between the applicant and the non-applicant No.1 is still in existence. It is also not disputed that the applicant is serving as an Engineer in Railway department, whereas the non-applicant No.1 has completed her LL.M. and practicing as an Advocate. As far as the contention of the applicant that she was not refused and neglected is concerned, the evidence is adduced by the non-applicant No.1 which shows that initially, there was everything smooth in the relationship, but

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subsequently, she was ill-treated and constrained to leave the matrimonial house. Her evidence specifically shows that after delivering the child, when she joined the company of the present applicant at the matrimonial house, her brother-in-law has not allowed her to join the company of the present applicant. She also attempted to join him at Mumbai, where he is serving, but she was not allowed to do so and therefore, she was constrained to leave the matrimonial house. Though she was cross-examined, but nothing incriminating came on record to show that there was any other reason for her to leave the matrimonial house. The evidence of her father also shows that as she was not allowed to join the company after she delivered a child and she was along with her and therefore, she constrained to come at her parent's house and took a shelter at the parent's house. Thus, the evidence of the non-applicant No.1 as well as her father shows that it was the refusal on the part of the applicant to join her company, to maintain her as well as to cohabit with her and therefore, she was constrained to leave the matrimonial house.

11. Undisputedly, the applicant is serving as an Engineer in the Railway department. It is also undisputed that the non-applicant No.1 has completed her LL.M., but there is no evidence on record that she is earning Rs.50,000/- per month from her law practice. On the contrary, there is sufficient evidence to show that the applicant is drawing gross salary approximately Rs.90,000/- in

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the year 2023 and subsequently, there was a hike in the salary. Admittedly, the non-applicant No.1 has to take care of her daughter and has to incur the expenses towards the maintenance of the daughter and her education. Admittedly, there is no evidence on record to show that she has any means to maintain herself as well as to maintain her daughter. Even accepting that she is practicing law and earning some amount that itself is not sufficient to deprive her from getting maintenance amount. 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 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 another decision in ***Vinny Paramvir Parmar vs. Paramvir Parmar*** reported in **(2011) 9 SCR 371** the Hon'ble Apex Court held that as there cannot be a fixed formula or a straitjacket rubric for fixing the amount of permanent alimony and only broad principles can be laid down. The question of maintenance is subjective to each case and depends on various factors and circumstances as presented in individual cases. This Court in the above judgment stated that the courts shall consider the following broad factors while determining permanent alimony i.e. income and properties of both the parties respectively, conduct of the parties, status, social and financial of the parties, the respective personal needs, capacity and duty to maintain others dependant on them, husband's own expenses, wife's comfort considering her status and the mode of life she was used to during the subsistence of the marriage, among other supplementary factors.

13. 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. Those factors are as under:

- i. Status of the parties, social and financial.
- ii. Reasonable needs of the wife and dependent children.

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- 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.
- 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.

14. 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 learned Family Court has granted maintenance at the rate of Rs.10,000/- per month to the non-applicant No.1 and Rs.5,000/- per month to the non-applicant No.2 from 26.07.2018 to 10.01.2024 and thereafter at the rate of Rs.15,000/- per month to the non-applicant No.1 and Rs.10,000/- per month to the non-applicant No.2. Admittedly, the non-applicant No.1 has to incur the expenses towards her own maintenance as well as towards the maintenance of her daughter and the education of her daughter and her other needs. The salary slips which are on record of month November 2023 shows that the gross salary of the present applicant was Rs.94,659/- and after deduction, he was getting a net pay of Rs.58,891/-. In December 2023, he was getting Rs.89,891/- and net pay Rs.53,836/- and in January 2024, he was getting Rs.88,446/- and net pay Rs.51,668/-. Admittedly, there is a hike in the salary within these two years. There is 7th Pay

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Commission which is applicable to all the salaried persons. Even accepting that the non-applicant No.1 was practicing law and getting something that itself is not sufficient to deprive her from getting maintenance. Merely because wife is earning for her livelihood some amount is not sufficient to deny her any further maintenance. The original applicant i.e. non-applicant No.1 was residing along with her husband and was leading the life as per the status of her husband i.e. the applicant. Therefore, her comfort, considering the status of the husband and other needs are to be taken into consideration. Nowadays, the prices of essential commodities are touching to the sky. She has to incur the expenses towards the rent of the house, and other needs clothing, food, shelter and the education of the child. At the same time, the Court has to consider the responsibilities shouldered by the husband. Even accepting that the order of maintenance granted by the Family Court is not excessive, exorbitant or harsh one and therefore, no interference is called for. The revision is devoid of merit and liable to be dismissed. In view of that, I proceed to pass following order:

ORDER

The revision application is dismissed.

(URMILA JOSHI-PHALKE, J.)