



Judgment

434 revn116 & 118.24

1

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

**CRIMINAL REVISION APPLICATION NO.116 OF 2024
AND
CRIMINAL REVISION APPLICATION NO.118 OF 2024**

CRIMINAL REVISION APPLICATION NO.116 OF 2024

Krishna s/o Suresh Khairnar,
aged about 44 years, occupation service,
r/o plot No.19, Jai Bajrang Society,
behind Manav Seva Nagar, Seminary
Hills, Nagpur-440 006. **Applicant.**

:: VERSUS ::

Revati w/o Krishna Khairnar,
aged about 42 years, occupation housewife,
r/o c/o Shri Madhukarrao Deotare,
Balkrishna Nagar, near old MHADA
colony, Wardha. **Non-applicant.**

CRIMINAL REVISION APPLICATION NO.118 OF 2024

1. Krishna s/o Suresh Khairnar,
aged about 45 years, occupation service.

2. Suresh Deorao Khairnar, aged about
74 years, occupation social work.

3. Indu w/o Suresh Khairnar, aged
about 72 years, occupation housewife,

.....2/-

2

All r/o plot No.90, Jai Bajrang
Society, behind Manav Seva Nagar,
Seminary Hills, Nagpur-440 006.

Applicants.

:: VERSUS ::

Revati w/o Krishna Khairnar,
aged about 42 years, occupation housewife,
r/o c/o Shri Madhukarrao Deotare,
Balkrishna Nagar, near old MHADA
colony, Wardha.

..... Non-applicant.

Shri P.D.Meghe, Counsel for Applicants.

**Mrs.Shiba Thakur, Counsel and Shri Amit Thakur, Advocate
for the Non-applicant.**

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 03/07/2025

PRONOUNCED ON : 17/07/2025

COMMON JUDGMENT

1. By these revisions, the applicants have challenged judgment and order dated 6.4.2024 passed by learned Additional Sessions Judge, Wardha in PWDVA Appeal Nos.15 and 16/2020 by which the appeal of the non-applicant/wife was allowed enhancing maintenance @

3

Rs.15000/- per month from the date of filing of the appeal and appeal of the applicant/husband was dismissed.

2. Brief facts of the proceedings necessary for disposal of the revisions are as under:

Applicant Krishna got married with non-applicant Revati on 6.7.2008. At the time of the marriage, he was serving in Canada as Scientist Officer. Initially, he could not take his wife along with him as she was not possessing Passport and Visa. For her Visa, her mother incurred expenses Rs.80,000/-. After she resumed cohabitation with the applicant at Canada, she was restrained from communicating with her parents and neighbours and to go outside. During the said wedlock, she begotten two daughters. As per the allegations, she was ill-treated by locking her in car and abusing her on the road and, therefore, she was constrained to leave the

4

matrimonial house and returned to India. She filed an application before the JMFC for grant of relief under Sections 17, 19, 20, 21, and 22 of the Protection of Women from Domestic Violence Act bearing Application No.345/2013.

3. The said application is strongly opposed by the applicant/husband on the ground that with the baseless and false allegations, the false application is filed. It was the non-applicant/wife who was not willing to reside along with the applicant and, therefore, she left matrimonial home and started residing at her parental house. As far as relief of maintenance is concerned, it is contention of the applicant/husband that the non-applicant/wife is working as Physiotherapist and earning for her livelihood. She is able to maintain herself. Therefore, the application deserves to be rejected.

5

4. After recording the evidence and hearing both the sides, learned JMFC granted maintenance to the non-applicant/wife and her two daughters at the rate of Rs.5000/- each from the date of the application. In addition to that, Rs.3000/- towards house rent and Rs.50,000/- towards compensation and Rs.2000 towards costs were granted to her.

5. Being aggrieved and dissatisfied with the same, the applicant/husband and the non-applicant/wife preferred appeals. The applicant/husband has challenged the order of learned JMFC on the ground that order granting maintenance is excessive and exorbitant as the non-applicant/wife is having sufficient means. Whereas, the non-applicant/wife preferred an appeal for enhancement. The appellate court observed that the applicant/husband is serving as Scientist Officer and getting handsome

6

income and the non-applicant/wife has every right to lead her life as per status of her husband and, therefore, enhanced the amount of maintenance @ Rs.15000/- per month to the non-applicant/wife from the date of filing of the appeal. The appeal of the applicant/husband was dismissed being devoid of merits.

6. Being aggrieved and dissatisfied with the same, the present revisions are filed by the husband.

7. Heard learned counsel Shri P.D.Meghe for the applicant/husband and learned counsel Mrs.Shiba Thakur for the non-applicant/wife.

8. Learned counsel for the applicant/husband submitted that the judgment and order passed by learned Judge below is erroneous and enhanced maintenance is excessive and exorbitant without considering the evidence that the non-applicant/wife is Physiotherapist by

7

profession and earning her livelihood and, therefore, she is not dependent on the applicant/husband. In view of that, the judgment and order passed by the appellate court in PWDVA Appeal No.16/2020 deserves to be quashed and set aside.

9. In support of his contentions, learned counsel for the applicant/husband placed reliance on following decisions:

1. Mamta Jaiswal vs. Rajesh Jaiswal, reported in 2000 SCC OnLine MP 580, and

2. Rajnesh vs. Neha and anr, reported in (2021)2 SCC 324, and

10. *Per contra*, learned counsel for the non-applicant/wife submitted that as a time gap arrangement, the non-applicant/wife was working as Physiotherapist, but subsequently, she was constrained to stop the work and

8

now she is jobless. She further submitted that at present she has no source of income. Whereas, the applicant/husband is serving as Scientist Officer and drawing salary of Rs.65000/- per month. He is able bodied person. The non-applicant/wife has to incur expenses towards education of her two daughters, towards their maintenance and towards day to day activities. In view of that, the revisions being devoid of merits are liable to be dismissed.

11. On hearing both the sides, it revealed that matrimonial relationship between the non-applicant/wife and the applicant/husband is not disputed. It is also not disputed that from the said wedlock two daughters are begotten. The non-applicant/wife has alleged domestic violence at the hands of the applicant/husband. She has also lodged the complaint under Section 498A against the

9

applicant/husband bearing RCC No.300958/2015.

During her evidence, she narrated regarding abuses and ill-treatment at the hands of the applicant/husband. She is cross examined at length. As far as evidence regarding the domestic violence is concerned, the same is not shattered during the cross examination.

12. By these revisions, the quantum of maintenance is only challenged by the applicant/husband.

13. During cross examination, the non-applicant/wife admitted that she is graduate in Physiotherapy and she has obtained the licence to give treatment of Physiotherapy. An attempt was also made to show that her mother is teacher and incurring expenses towards the maintenance of the non-applicant/wife and her daughters. The applicant/husband has also adduced the evidence and stated that the non-applicant/wife is

10

Physiotherapist by profession and having sufficient means to lead her life and, therefore, the order passed by the appellate court for grant of maintenance at enhanced rate is excessive and exorbitant one. The non-applicant/wife has also adduced evidence by examining her parents who have supported her contentions. The cross examination of the non-applicant/wife shows that the applicant/husband has taken her at various places in Canada, but that aspect only is insufficient to show that she was not subjected for domestic violence. Her specific contentions, that there were restrictions on her in communicating with her parents and neighbours and she was confined in the house, are supported by her parents. Thus, as far as domestic violence is concerned, there is sufficient material on record.

11

14. Now, only question is that whether the appellate court committed error in enhancing the maintenance amount.

15. It is undisputed that the applicant/husband is a qualified person and serving as Scientist Officer. The evidence on record shows that at the relevant time, in the year 2013, when the evidence was recorded, he was drawing salary of Rs.65000/-, after all deductions. Though the non-applicant/wife possesses degree of Physiotherapist, no evidence is on record to show that she is earning sufficient amount to maintain herself as well as to maintain her two daughters. Admittedly, she has to incur expenses towards the school education of her two daughters, their day to day needs, clothing, rented house, as well as she has to maintain herself as per the status of the applicant/husband. Therefore, the amount of

12

enhanced maintenance granted by the appellate court is legal and proper one.

16. The Hon'ble Apex Court, in the case of **Rinku Baheti vs. Sandesh Sharda**, reported in **MANU/SC/1374/2024**, in paragraph No.14.5 observed as under:

“14.5 We have serious reservations with the tendency of parties seeking maintenance or alimony as an equalisation of wealth with the other party. It is often seen that parties in their application for maintenance or alimony highlight the assets, status and income of their spouse, and then ask for an amount that can equal their wealth to that of the spouse. However, there is an inconsistency in this practice, because the demands of equalisation are made only in cases where the spouse is a person of means or is doing well for himself. But such demands are conspicuously absent in cases where the wealth of the spouse has

13

decreased since the time of separation. There cannot be two different approaches to seeking and granting maintenance or alimony, depending on the status and income of the spouse. The law of maintenance is aimed at empowering the destitute and achieving social justice and dignity of the individual. The husband is under a legal obligation to sufficiently provide for his wife. As per settled law, the wife is entitled to be maintained as far as possible in a manner that is similar to what she was accustomed to in her matrimonial home while the parties were together. But once the parties have separated, it cannot be expected of the husband to maintain her as per his present status all his life. If the husband has moved ahead and is fortunately doing better in life post his separation, then to ask him to always maintain the status of the wife as per his own changing status would be putting a burden on his own personal progress. We wonder, would the wife be willing to seek an equalisation of wealth with the husband if due to some

14

unfortunate events post-separation, he has been rendered a pauper?”

17. The law with respect to deciding the amount of permanent alimony is settled by the various decisions of the Hon’ble Apex Court.

18. In the case of **Kiran Jyot Maini vs. Anish Pramod Patel, reported in (2024) 7 SCR 942**, the Hon’ble Apex Court has considered the facts 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

15

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.”

14. In another decision in **Vinny Paramvir Parmar vs. Paramvir Parmar (2011)9 SCR 371**, the Hon’ble Apex Court held that, 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

16

following broad factors while determining permanent alimony – income and properties of both the parties respectively, conduct of the parties, status, social and financial, of the parties, their respective personal needs, capacity and duty to maintain others dependent 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.

19. In the case of **Rajnesh vs. Neha, reported in (2021)2 SCC 324**, elaborating 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

17

are illustrative but are not limited or exhaustive, they are adumbrated 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.
- 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.

18

20. 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, the appellate court has enhanced the maintenance to the non-applicant/wife @ Rs.15000/- per month which is not excessive and exorbitant in the light of the facts that she has to maintain two daughters, their education, and their daily needs when the prices of essential commodities are touching to the sky. The applicant/husband is having sufficient means. Merely because the wife is earning for her livelihood some amount, that by itself is not sufficient to deny her any further maintenance. The non-applicant/wife was residing along with her husband and was leading the life as per the status of her husband, and therefore, her comfort, considering the status of the husband and other needs, are to be taken into consideration. Nowadays, the prices of the essential

19

commodities are also touching to the sky. She has to incur the expenses towards rent of the house and other needs i.e. clothing, food, and shelter. At the same time, the Court has to consider the responsibilities shouldered by the husband. After balancing all these factors, the amount of enhanced maintenance granted is in the interests of justice.

21. In this view of the matter, the revision applications being devoid of merits are liable to be dismissed and the same are **dismissed**.

Revisions stand **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!