



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

CRIMINAL REVISION APPLICATION NO. 185 OF 2024

APPLICANT

(Ori. Respondent)

Atul s/o Gajanan Kandeale,
Aged about 31 years, Occupation –
Private, R/o Vastu Nagar,
Ashok Nagar, Nashik.

-VERSUS-

RESPONDENT

(Ori. Petitioner)

Sau. Lakshmi w/o Atul Kandeale,
Khandve, aged about 27 years, Occu:-
Private, R/o Chaitanyawadi, C/o
Sudhakar Girhe, Sagwan, Buldana,
District 443001.

Mr. S.V. Kulkarni, counsel for applicant.
None for the respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 20/02/2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.** Heard finally with the consent of learned counsel Mr. S. V. Kulkarni for the applicant.
3. By this revision, the applicant has challenged the

judgment and order of grant of maintenance passed by the Family Court Buldana in Petition No. E-62/2023 dated 23/10/2024.

4. The brief facts of the case, which are necessary for disposal of the revision application, are as under;

The non-applicant and the applicant are legally wedded wife and their marriage was solemnized on 04/06/2021 at Panhera Khedi, Tq. Motala, District Buldana as per Hindu Rites and Religion. The matrimonial relationship is still in existence.

5. As per the contention of the non-applicant, after marriage, she resumed the cohabitation at the house of the present applicant. However, she was not treated well, and she was subjected to discriminatory behavior. Initially, she has tolerated the said ill-treatment; subsequently, she has filed the report under Sections 498-A, 323, 500, and 504 read with Section 34 of the Indian Penal Code, 1860. Subsequently, she has also filed the proceedings under the Protection of Women from Domestic Violence Act, 2005, and thereafter, she filed this application for grant of maintenance. As far as the contention, she was ill-treated by the present applicant and his family members by asking her for money to purchase a car, as well as also ill-treated by causing

mental and physical cruelty, and on 09/11/2021, she was driven out of the house, and since then, she is residing at her parents house.

6. It is contended that since January 2012, she shifted to Buldana and was admitted into the competitive exam classes for recruitment in Police Department. She is depending on the help of her parents, and it is difficult for her to survive, and therefore, she claimed maintenance.

7. On the other hand, the said application is strongly opposed by the present applicant by filing a written statement. He submitted that the non-applicant never turned to cohabit with him, and she never resided at Buldhana, and therefore, he filed a divorce petition bearing HMP No. 119/2023 on 05/12/2023. On 05/08/2022, the non-applicant lodged the false report against him at Dhamangaon Police Station. Thus, it is submitted that it was the non-applicant who has refused him and left the matrimonial house without any sufficient reason, and therefore, the application for grant of maintenance deserves to be rejected.

8. After hearing learned counsel for the applicant and after giving sufficient opportunity to the non-applicant to appear

before this Court, as she fails to appear, the matter is taken for final disposal.

9. Learned counsel, Mr. Sunil Kulkarni for the applicant, reiterated the contention and submitted that the applicant is drawing only a salary of Rs. 21,000/-, and the Family Court has not considered that the applicant has other responsibilities towards his parents. He has to incur the expenses towards his expenses also, and without considering the same, the maintenance was granted.

10. He further submitted that, in fact, the non-applicant never resumed the cohabitation, and therefore, no question of refusal and neglect arises. In view of that, the application deserves to be allowed, but the Family Court has not considered the same and granted the maintenance @ Rs. 10,000/-, which is expensive and exorbitant.

11. After hearing learned counsel for the applicant and on perusal of the impugned judgment as well as other evidence on record, it is to be seen whether the applicant succeeded in proving that she is subjected for ill-treatment and therefore, she has valid reasons to stay separately and claim a maintenance. To prove the

claim, the applicant examined herself by filing an affidavit of examination-in-chief vide Exhibit No. 40, and she reiterated the contention. She is cross-examined at length. During her cross-examination, it has come on record that she has lodged the report under Section 498-A.

She denied that the application as no source of income and he has no agricultural land, and only drawing the salary of Rs. 21,000/-.

12. The non-applicant has also adduced his evidence and he reiterated the contention that except the salary, there is no other income he is drawing and therefore, the non-applicant has not resided along with him. Thus, the non-applicant herself has withdrawn from his company, and therefore, she is not entitled for maintenance. He is also cross-examined at length. During cross-examination, he admitted that he has preferred a petition for dissolution of marriage. He stated that he is not aware of which class the non-applicant is taking tuition for and earning money.

13. He further admitted that there is a 498-A complaint lodged against him and the rest of the contentions are denied by him, but he admitted that he is working in a company, Glenmark

Pharmaceuticals Limited, as a Training Officer and drawing a salary of Rs. 21,000/-. He submitted that his parents are dependent upon him.

14. On the basis of the said evidence, the salary slip as well as the 7/12 extract of the agricultural field, which is in the name of the father of the present applicant, the amount of maintenance was granted.

15. The non-applicant has not appeared, though notice is served upon her. The object of Section 125 Code of Criminal Procedure is a measure of social justice, especially enacted to protect women and children, falling within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution. Thus, the objective of the provision, then and now, is to assist the financial assistance to the destitute wives, children, and parents who are left by their relatives. The Section 125 Code of Criminal Procedure was conceived to ameliorate the agony, anguish, and financial suffering of a woman who left her matrimonial house for the reasons provided in the provision, so that some suitable arrangements can be made by the court and she can sustain herself and also her children, if they are with her. It was the concept of

subsistence, which did not necessarily mean to lead the life of an animal, feel like an unperson to be thrown away from grace, and roam for her basic maintenance somewhere else, and the wife would be entitled to lead a life in a similar manner as she would have lived in the house of her husband. Thus, the inherent and fundamental principle behind Section 125 of Code of Criminal Procedure is financial assistance to the women who suffer because of the desertion at the hands of her husband, who is compelled to live her matrimonial house. As per the law, she is entitled to lead life in similar manner as she could have in the house of her husband, and as long as she held entitled to grant of maintenance within the parameters of Section 125 of Code of Criminal Procedure, it has to be adequate so that she can live with dignity. Lastly, it is to be considered that sufficient means has to pay the maintenance, the wife for living separately for one or the other reason.

16. In the light of the above principles, if the evidence of the present case is considered, the non-applicant has left the matrimonial house, as further allegations were made that she was ill-treated. This fact is supported by her report filed under Section

498-A of Indian Penal Code, 1860, wherein she has alleged that after marriage she was ill-treated for the demand of money to purchase the plot and to purchase the car.

17. Learned counsel, Mr. Sunil Kulkarni for the applicant, submitted that the applicant and his family members are already acquitted from the charges under Section 498-A of Indian Penal Code, 1860. There is no dispute as to the fact that to prove the offence under Section 498-A of Indian Penal Code, 1860, prosecution has to prove the case beyond reasonable doubt. But considering the evidence of the victim, it is apparent that the wife has sufficient reason to stay separate and to leave the matrimonial house.

18. The intention of the present applicant can be gathered from the circumstances that he has immediately preferred an application for dissolution of marriage bearing Case No. 119/2023 in Civil Court, Malkapur. As far as his efforts to bring or fetch back his wife, i.e. non-applicant is concerned, no efforts are taken by him to fetch back the wife to cohabit with him. Thus, considering the evidence on record, the refusal and neglect, and the statement and the evidence of the non-applicant, it is sufficient to say that

there is a sufficient reason for the non-applicant to stay separately from her husband.

19. As far as quantum is concerned, it is an admitted position that the applicant is serving as a Trainee in Glenmark Company and drawing a salary of Rs. 21,565/-. The salary certificate is on record. The impugned judgment also discloses that the 7/12 extract, which is filed on record, is in the name of his father, and it shows that the family is having agricultural land and there is an income from the said agricultural land also. Thus, considering the income from the agricultural land and salary, the Family Court has granted maintenance @ Rs. 10,000/-. At the time of fixing the quantum of maintenance, the Court has to consider the status of the husband, as the wife is also entitled to lead the life as per the status of the husband, and therefore, considering the same, the amount of Rs. 10,000/- is an appropriate amount.

20. Moreover, the non-applicant has incurred the expenses towards her daily needs as well as food and clothes, and therefore, I do not think that the amount of maintenance granted by the Family Court is exorbitant or excessive.

Thus, the revision has no merits, and being a revision

is devoid of merits and liable to be dismissed. Accordingly, I proceed to pass the following order:

The revision application is **dismissed**.

[URMILA JOSHI-PHALKE, J.]