



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

CRIMINAL REVISION APPLICATION NO. 216 OF 2024

APPLICANT : Mr. Rajesh Ramkrushna Bodhankar,
(Ori. Non-applicant) Aged about 41 years, Occu: Service,
Office Address – Quest Global
Engineering Pvt. Ltd., Outer Ring
Road, Marathalli, Bangalore.

-VERSUS-

NON-APPLICANT Sau. Rupali Rajesh Bodhankar,
(Original Applicant) Aged about 37 years, Occu:
Housewife, R/o C/o Mahadevrao
Gulhane, Praful colony, Sai Nagar,
Amravati, Tq. and District Amravati.

Mr. Mirza Tabish Tahseen Ahmed counsel for applicant.
Mr. Kuldeep Pradeep Mahalle, counsel for non-applicant.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE : **23/07/2025**

ORAL JUDGMENT :

1. Heard. **Admit.** Heard finally with consent of learned
counsels appearing for the parties.

2. By this revision, the applicant is seeking setting aside and quashing of the order passed by the Judicial Magistrate First Class, Court No. 11, Amravati, below Exhibit-5, granting maintenance to the respondent at the rate of Rs. 5,000/- and Rs. 6,500/- towards the rent from the date of application.

3. The present applicant and the respondent married on 25/04/2018. The non-applicant/wife went to the house of the applicant for cohabitation. The respondent in the original application, who is the husband, was residing along with his parents and his sisters. The respondent/husband allegedly treated the applicant/wife with ill-treatment and also subjected her for the domestic violence. It is contended by the wife that her husband/respondent raised a quarrel with her on account of the demand of Rs. 5,00,000/- and she was also beaten, and therefore, she was constrained to leave the matrimonial house. Thereafter, she approached the Family Court with a prayer for grant of maintenance as well as the compensation. The Family Court has considered the application as well as the reply filed by the respondent/husband and, by observing that the applicant/wife was subjected for domestic violence, granted maintenance at the

rate of Rs. 5,000/- and the amount of Rs. 6,500/- towards the house rent.

4. Being aggrieved and dissatisfied with the same, the present applicant, who is the husband, challenged the said order on the ground that the wife is residing along with her parents, and she is not incurring the expenses towards the house rent, and therefore, she is not entitled for any amount towards the house.

5. Heard learned counsel for the applicant/husband, who reiterated the said contention and submitted that the application itself shows that she is residing along with her parents, and if she is residing along with her parents, there is no reason for her to incur the expenses towards the house rent. Whereas the applicant/husband is residing in Bangalore, he has to incur the expenses towards his own expenses as well as towards the medical expenses of his parents. He is drawing salary of Rs. 66,556/- and after deduction, he is only getting an amount of Rs. 37,000/-. Therefore, he is not able to incur the expenses towards the house rent of the wife/respondent, and therefore, he submitted that the order passed by the Judicial Magistrate First Class as to the grant of house rent deserves to be quashed and set aside.

6. Learned counsel for the respondent/wife strongly opposed the said contention and invited my attention towards the house rent receipt and submitted that the wife has already incurred the expenses towards the house rent, and in view of Section 12 of the Protection of Woman from Domestic Violence Act (for short 'the D.V. Act'), the applicant/wife is entitled for the said relief. Section 19 of the D.V. Act also speaks about the expenses towards the accommodation of the wife, and therefore, there is no illegality committed by the Judicial Magistrate First Class by granting the said amount towards the house rent.

7. On perusal of the application as well as the reply filed by the husband and the observation of the trial Court, it reveals that the application was filed by the applicant/wife for grant of interim maintenance as well as for the amount towards the house rent. There is no dispute as to the relationship between the applicant and respondent that they are legally wedded husband and wife. The allegation against the present applicant/husband is that he has treated the respondent/wife with ill treatment.

8. In support of the pleadings, she has filed on record before the Judicial Magistrate First Class a complaint and some NC

reports and various complaints filed by her as well as the reports to the police station and the FIR. Thus, there are various criminal complaints filed by the parties against each other, including NC report under Section 506 and 498-A of the IPC. Both husband and wife have made allegations against each other as to the cruelty and ill-treatment at the hands of each other. The contentions are taken into consideration, from which it reveals that admittedly the wife is residing separately and there is nothing on record to show that the applicant/husband has made any provision for her residence or for her maintenance. Admittedly, the applicant/husband is serving as a project manager having salary of Rs. 66,565/- per month, and even accepting the contentions of the learned counsel for the applicant/husband that after deduction, he is receiving an in-hand salary of Rs. 33,000/-, then also, he is shouldering the responsibility of his wife, and towards the maintenance, he has to incur the expenses. Admittedly, no provision is made by the present applicant towards her shelter, and therefore, she was constrained to take shelter at her parents' house.

9. The Learned Judicial Magistrate First Class has

considered these aspects and granted the amount of Rs. 6,500/- towards rent. The rent receipts on record also disclose that she has paid some amount towards the rent, and the rent receipt issued by the landlord is on record. Thus, as far as the contention of the respondent/wife that she has incurred the expenses towards the rent, it is substantiated by the said rent receipt.

10. Learned counsel for the applicant/husband, though submitted that he is not challenging the order of grant of maintenance, then also, he has made submissions that he has to incur the expenses towards the maintenance of his parents, as he has been shouldering the responsibility of his parents, and towards their medical expenses as well as towards his own expenses. The legal position is undisputed that the husband has to make the provisions for the maintenance of his wife. It is also well settled that the wife has every right to lead the life as per the status of her husband.

11. In the case of *Tinku Baheti Vs Sandesh Sarada reported in MANU/SC1374/2024*, wherein it is observed by the Hon'ble Apex court that :-

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

12. The law with respect to deciding the amount of permanent alimony is settled by the various decision of the Hon'ble Apex Court. In the case of ***Kiran Jyot Maini vs. Anish Pramod Patel, (2024) 7 SCR 942***, wherein the Hon'ble Apex Court considered the fact 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.”

13. In another decision of the Hon’ble Apex Court in the case of ***Vinny Paramvir Parmar vs. Paramvir Parmar, reported in (2011) 9 SCR 371***, wherein the Hon’ble Apex Court has 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 judgments 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, their 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.

14. In the case of *Rajnish vs. Neha, reported in (2021) 2 SCC 324*, wherein the Hon'ble Apex Court 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 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, and his income.

15. In the light of the above factors laid down by the Hon'ble Apex Court and on perusal of the provision that Section 12 of the D.V. Act, especially Sub-Section (1), states that an aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act. Provided that, before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider. Sub-Section (2) states that the relief sought for under sub-section (1) may include relief for issuance of an order for payment of compensation or damages without prejudice to the right of such person to institute a suit for compensation or damages for the injuries caused by the acts of domestic violence committed by the respondent.

16. Thus, the clause under Section 12 of the D.V. Act lays down that an aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under the proposed legislation, including an order for payment of

compensation or damages, without prejudice to the rights of such person to institute a suit for compensation or damages. While disposing of an application under Sub-clause (1), the Magistrate shall take into consideration, in a domestic incident, the report received by him from the Protection Officer or the service provider.

17. Section 19 of the D.V. Act speaks about the residence orders, and sub-section (1) of Section 19 specifically states that while disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order.

18. Thus, in view of the above provisions, the Judicial Magistrate First Class has passed an order considering the fact that the applicant has not made any provision for the residence and therefore the respondent/wife has already incurred the expenses towards the rent of the house and therefore granted the amount of Rs. 6,500/- towards the house rent.

19. Moreover, considering that the respondent/wife has to incur the expenses towards her maintenance i.e. towards clothing and other daily needs. The Judicial Magistrate First Class has granted the maintenance at the rate of Rs. 5000/-, which

cannot be set to be on the higher side. In fact, the learned Judicial Magistrate First Class has considered the needs of the wife and thereafter granted the maintenance. Now a days, the prices of the essential commodities are touching to the sky, in that circumstances and considering the expenses which the wife has to incur, the amount granted towards the maintenance as well as towards the house rent is proper, and no interference is called for in the said order.

In view of that, revision application being devoid of merits and liable to be dismissed. Accordingly, I proceed to pass the following order.

ORDER

- a] Criminal application is **dismissed**.
- b] The applicant/husband shall deposit 50% of the total arrears within four weeks.

[URMILA JOSHI-PHALKE, J.]