RUSHIKESH VISHNU PATIL
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL (STAMP) NO. 40178 OF 2025
WITH
INTERIM APPLICATION NO. 314 OF 2026
WITH
INTERIM APPLICATION NO. 904 OF 2026

Vikrant Shankar Sabnis .. Appellant/Applicant

Versus

Vaishali Vinayak Kelkar & Ors. .. Respondent

...

Mr. Abhijit Sarwate a/w Ms Sanjana Jadhav, for the Appellant/Applicant.

Mr. Abhishek Salian a/w Mr. Mayuresh Ingale, Ms Kinnari Raut and Ms Ayesha Dhorajiwala i/by Nyaaya Legal, for the Respondents in FCA.

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CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.

DATED : 14th AUGUST, 2026

P.C:-

1. The Appeal raises a challenge to the order passed by the Judge, Family Court, Pune, on a Miscellaneous Application taken out by the Applicant under Section 25(2) of the Hindu Marriage Act, 1955, for modification of the maintenance order.

Worth it to note that, by the Judgment & Decree dated 05.09.2022 in P.A. No. 622 of 2017, the marriage between the parties was dissolved and the terms and conditions as regards payment of maintenance for the wife and children were

worked out. However, the Application came to be filed in the wake of the change in circumstances, the decree having been passed 22 months ago.

Apart from the fact that the Applicant was remarried and one child is born out of the said relationship, several other grounds were set out in the Application, including the ground that the wife has her independent sources of earning and the daughter is also gaining income from the property which is given to her, and several other grounds.

Learned counsel, Mr. Sarwate, by inviting our attention to the impugned order, would submit that though the learned Judge formulated the question as to whether the Applicant has proved a change in the financial circumstances of the party and answered the same in the negative, the Judge has not discussed any single circumstance to support his finding and was rather carried away by the fact that the Applicant was bound to remain faithful to his words and obey the decree and then choose his personal obligations, and no other justification is to be found while rejecting the Application.

2. We find ourselves in agreement with what Mr. Sarwate has argued, as, on reading the impugned judgment, we find that the learned Judge, except recording this finding and noting that it is Petitioner's right to start a new inning of life, but he should have done this after he would have abided by the consent decree, is something which, according to us, is not the proper manner of deciding an application which seeks modification of a decree, as it is very well within the powers of an Applicant to seek modification of a decree subject to a change in the circumstances, and this is what the Applicant

pleaded, which definitely deserve an appropriate consideration at the instance of the Judge. Having failed to do so, we have no other alternative than to set aside the said order dated 06.12.2025.

When the Appeal came up before us, and we considered the Interim Application, on 27.03.2026, a consensus was recorded to the effect that the husband shall deposit a sum of Rs.4,00,000/- in the account of the wife without prejudice to their rights and contentions, and the wife shall not precipitate the action for attachment of salary or take any coercive action for recovery of the same. From the computation placed before us by learned counsel, Mr. Sarwate, on behalf of the Appellant, it is to be noted that the Application was filed for modification before the Family Court on 27.07.2024 and it was decided by the impugned order passed on 06.12.2025. For the month of August 2024, the Appellant paid a sum of Rs.86,400/- but did not pay a sum of Rs.6400/-. According to Mr. Sarwate, from September 2024 till November 2025, the Appellant reduced the amount that is payable under the consent decree by 50% and paid an amount of Rs. 45,000/- per month, thus, according to his computation, from August 2024 to November 2025, a sum of Rs.7,61,400/- has been disbursed as per the consent decree, and what was not paid was a sum of Rs.7,49,000/-, which, according to Mr. Sarwate, amounts to 50% of the amount, which was liable to be paid under the consent decree.

The Appellant has an explanation to offer that because he had filed an application, which was pending before the Family Court, seeking modification of the consent decree, he chose to make payment to the extent of 50%. We do not

approve this approach, as without any stay on the payment of the amount due under the consent decree by the Family Court, the Appellant could not have unilaterally slashed his burden under the consent decree, that too by a substantial amount, i.e. 50% of the amount due and payable. In any case, upon the judgment being delivered on 06.12.2025, for the month of December 2025 up to March 2026, the Appellant once again disbursed an amount under the consent decree, i.e. in the sum of Rs.99,200/-. Once again, from the month of April till date, we are informed that the Appellant has come back to an amount of 50%. All the aforesaid exercise, according to the Appellant, is at his own whims and fancies, without either this Court directing payment of amount of 50% or the Family Court giving him leave to reduce the liability under the consent decree by 50%.

3. On perusal of the impugned order, since we have expressed that there is no reasoning by the trial Court which could be discerned in the backdrop of the application filed for modification, and if the application is to be rejected, each and every ground, being treated as a separate ground, ought to have been dealt with in detail by the learned Judge, with the pleadings being permitted to be controverted by the other side, and this exercise having not being undertaken and a conclusion being straightaway drawn that the application is rejected, does not appeal to us at all. For this reason, we indicated that the matter shall be remanded to the Family Court for the determination of the application afresh.

In the meantime, Mr. Sarwate, on behalf of the Appellant, expressed that the Appellant is ready to deposit 50% of the

amount of arrears, which, according to him, is computed at approximately Rs.5,00,000/-, and he is ready to make payment of Rs.2,50,000/-, i.e. 50% of the said amount. However, the learned counsel for the Respondent has another suggestion, which was conceded by Mr. Sarwate, the suggestion being that upon the matter being remanded to the Family Court, the Appellant is at liberty to make an appropriate application for permitting him to deposit 50% of the amount which he is under an obligation to pay in terms of the consent decree, and subject to the Court granting such concession, he shall make the payment to the extent of 50%, which shall even cover the month of September 2024 to November 2025 and April 2026 till date, as well as the current. For this purpose, we direct that if an application is made by Mr. Sarwate, which would include the prayer for condoning the payment of 50% of the amount for the previous months and also a further direction that till the application is decided, he shall continue to make payment of 50% of the amount under the consent decree, the learned Judge shall consider the same expeditiously and pass an order upon the application not later than six weeks.

4. As far as the consideration of the Application filed for modification of the judgment under Section 25 of the Hindu Marriage Act, 1955 is concerned, the learned Judge shall, if warranted, after permitting the parties to lead evidence, adjudicate the said application within a period of four months.

The learned counsel for the Respondent, however, seriously contests the submission of Mr. Sarwate by submitting that this is not the only amount which is due and

payable, as, in addition to the fixed amount, some amount towards the educational expenses was also to be borne. We leave it open for the learned Judge, Family Court, to consider all these aspects as to what is the amount due and payable. With the aforesaid observations, the Family Court Appeal is disposed of.

Pending Interim Applications also stand disposed of.

(ASHISH S. CHAVAN J.) **(BHARATI DANGRE, J.)**

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