



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

CRIMINAL REVISION APPLICATION NO. 3 OF 2024

Mr. Raymond Laney Rodrigues.Vs. Mrs. Yogita w/o Raymond Rodrigues and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr A.H. Matewar, Advocate for the applicant.
Mr. N.M. Kolhe, Advocate for the non-applicants.

CORAM : URMILA JOSHI PHALKE, J.
DATE : 25.02.2026

Present revision application challenges the judgment and order of Family Court in petition No.E-491/2013 dated 4.06.2022 by which the maintenance @ of Rs.9,000/- (Rs. Nine Thousand Only) per month to non-applicant No.1 and Rs.5,000/- (Rupees Five Thousand Only) p.m. to non-applicant No.2. from the date of application i.e. 26.09.2013.

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

The applicant and non-applicant No.1 are husband and wife. Their marriage was solemnized on 01.10.2003 at Nagpur as per their rites and customs. From the said wedlock, she gave birth to non-applicant No.2 namely son Marshal. After retirement of the applicant they all shifted to his native place in Kurikumer, Kashipatna Manglore, Karnataka. When non-applicant No.1 had been to her native place in the month of April 2009 for attending the death anniversary of her maternal uncle, applicant never turned up to take them back. However, she got surprised that she has

received the notice of the Court of Civil Judge Senior Division Karkala and she came to know that present applicant has preferred divorce petition against her. She then approached to NGO at Delhi and with their help, filed petition to the Hon'ble Supreme Court for transfer of divorce petition from Karnataka to Nagpur Court. She also filed application for grant of maintenance. Thus, it is her contention that applicant has refused and neglected her as well as her son to maintain and therefore, she approached to the Court for grant of maintenance. However, the dispute was settled between her and present applicant and present applicant agreed to pay the amount of Rs.3,000/- towards the maintenance. After the settlement also the applicant has not taken proper care and has not made any provision for her maintenance as well as for medical treatment. He never taken her to the hospital when she was not well. There used to be quarrel between her and present applicant. Therefore, she constrained to file an application for grant of maintenance.

3. Despite the notice is served on the applicant he failed to appear and resist the application and therefore, application was proceeded ex-party. Non-applicant No.1 has adduced her evidence. In her evidence she has categorically narrated ill treatment as well as refusal and neglect on the part of the present applicant. As her evidence remained unchallenged, the Family Court considered her evidence and granted maintenance at the rate of Rs.9000/- per month to non-applicant No.1 and Rs.5,000/- to non-applicant No.2.

4. Being aggrieved and dissatisfied with the same the present revision application is filed by the applicant on the ground that the order of maintenance is without considering the fact that he is only getting an amount of Rs.20,000/- as pension. There is no proof as to his agricultural income and therefore, the amount of maintenance excessive and exorbitant. In view of that the order of granting maintenance @ of Rs. 9,000/- be reduced and the monthly maintenance amount @ Rs.5,000/- be granted to non-applicant Nos.1 and 2.

5. Heard learned counsel for the applicant who by reiterating the said contentions took me through the recitals of the judgment and observations in the judgment and submitted that merely on the basis of the oral statement of the non-applicant No.1 maintenance amount was granted. In view of that as the maintenance amount granted is without the evidence deserves to be quashed and set aside.

6. Per contra, learned counsel for the non-applicants submitted that it is admitted position that present applicant was serving as Professor and he retired as a Professor and was getting pension at the @ Rs.20,000/-. He submitted that now due to the application various pay commissions pension amount is already increased. Therefore, amount granted @ Rs.5,000/- and @ Rs.9,000/- is not excessive and exorbitant. There is no reason to reduce the said amount. In view of that, revision application being devoid of merits and liable to be dismissed.

7. On hearing both the sides and on perusal of the impugned judgment it reveals that relationship between applicant and non-applicant No.1 is not in dispute. It is also not in dispute that non-applicant No.2 begotten from the said marriage. It is also not disputed that present applicant has preferred a petition for obtaining decree of dissolution of marriage which subsequently by the order of Hon'ble Apex Court transferred from Karnataka to Nagpur and thereafter non-applicant No.1 filed an application for grant of maintenance vide petition No.E-288/2009. It is also not in dispute that in view of the settlement it was agreed that applicant would pay the amount of Rs.3,000/- but he has not paid the said amount and therefore, non-applicant No.1 constrained to file an application. She has adduced her evidence. Her evidence remained unchallenged. She has specifically stated that as she came to her native place to attend death anniversary of her maternal uncle but he never came to take her back and issued the notice for the dissolution of the marriage. This fact itself sufficient to show that there was refusal and neglect on the part of the present applicant and thereafter she constrained to file the application. It is undisputed fact that applicant is retired as professor and getting monthly pension of Rs.20,000/-. The judicial note can be taken now due to the applications of the various commissions there is increase in the pension amount. Admittedly no evidence is adduced as far as income from agricultural is concerned. But even accepting that the present applicant is getting pension and it may have been increased due to the application of the various commissions the amount of maintenance at the rate of Rs.9,000/-

to the non-applicant No.1 and @ Rs.5,000/- to the non-applicant No.2. is not excessive and exorbitant amount. Now the considerations for grant of maintenance are settled by the judgment of the Hon'ble Apex Court in the case of ***Rajesh vs. Neha and another*** in ***Criminal Appeal No.730/2020 AIR 2021SC 569*** wherein the Hon'ble Apex Court has considered ***the Criteria for determining quantum of maintenance and it is observed that*** (i) The objective of granting interim / permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse.(ii) There is no straitjacket formula for fixing the quantum of maintenance to be awarded. (iii) The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife are the basic criteria for fixing the amount of maintenance and a careful and just balance must be drawn between all the relevant factors.

8. In view of the above observations of the Hon'ble Apex

Court if the balance is strike down in the present case the amount granted @ of Rs.9,000/- and Rs.5,000/- is quite reasonable as the non-applicant No.1 has to incur expenses towards her living standard as well as towards the education of the non-applicant No.2. Therefore, I do not find any merit in the revision application and hence revision application deserves to be dismissed.

9. Accordingly, I proceed to pass the following order:-

(i) Criminal Revision Application is dismissed.

Pending applications, if any also stand disposed of.

(URMILA JOSHI PHALKE, J.)

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