



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

CRIMINAL REVISION APPLICATION NO. 36 OF 2024

1. Smt. Neelam W/o Punit Barmase,
Aged about 34 Years, Occ. Housewife,
2. Ku. Vanya D/o Punit Barmase,
Aged about 5 Years, Occ- Nil,
(Being minor through the Mother as a
legal guardian)
Both R/o. c/o Hari Narayan Prasad,
Plot No.521, Nagarjun Colony, Nari
Basti, Nari Road, Nagpur-14.

APPLICANTS

Versus

Punit S/o Sujay Barmase,
Aged about 34 Years, Occ. Service,
R/o. Govt. Polytechnic College,
Sandurwafa Road, Sakoli,
Dist. Bhandara-141802.

NON-APPLICANT

Mr. Y.R. Kinkhede, Advocate for the Applicants.
Mr. V.B. Gawali, Advocate for the Non-applicant.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 12th MARCH, 2026.

ORAL JUDGMENT :-

1. By this Revision, the Applicants are challenging the judgment and order passed in Petition No.E-229/2018 dated 16.03.2023 by Family Court No.3, Nagpur, by which the maintenance was granted at the rate of Rs.4,000/- per month each to Applicant Nos.1 and 2.

2. Brief facts which are necessary for the disposal of the present Revision are as under:

2(i). The marriage of present Applicant No.1 and Non-applicant has solemnized on 21.01.2024 at Ghotra Lawn, Kamptee Road, Nagpur as per the rights and religion of which they belongs to. From the said wedlock the Applicant No.2 born. It is alleged that, after the solemnization of the marriage the Applicant No.1 has resumed cohabitation at matrimonial home situated in rented premises alongwith Non-applicant and his mother. After one month from marriage, the behaviour and attitude of the Non-applicant and his mother towards the present Applicant was changed. She was illtreated for various reasons, as far as for the unlawful demand of dowry, and therefore, she constrained to leave the matrimonial house. It is alleged by her that, she was refused and neglected by the

present Non-applicant, and therefore, she has taken shelter at her parents house and staying there at the mercy of her parents, and therefore, she constrained to file an application for grant of maintenance.

2(ii). It is further her contention that, the Non-applicant is working in Government Polytechnic College. Initially he has worked at Arvi and now he is transferred at Sakoli. He is earning the handsome amount i.e. gross salary of Rs. 60,077/-. Thus, he has sufficient means to grant her maintenance. In view of that, she contended that she has to incur the expenses towards her livelihood as well as towards the education of her daughter, and therefore, she is in need of financial assistance and the Non-applicant has not made any provisions for her maintenance. In view of that, she claimed for maintenance at the rate of Rs.10,000/- each for her as well as for her daughter.

2(iii). The said Application is strongly opposed by the Non-applicant on the ground that it was the Applicant No.1 who has left the matrimonial house. She withdrawn herself from the company of the present Non-applicant, and therefore, she is not entitled for maintenance. It is further contended by him that, he

is holding the responsibility of his mother as well as there is no change in circumstances, and therefore, his salary is also reduced, and therefore, he is not in a position to pay the maintenance to the present Applicants, and therefore, the application deserves to be rejected.

2(iv). The learned Family Court after considering the evidence adduced on record comes to the conclusion that the Non-applicant is having sufficient means as he is drawing salary of Rs. 60,077/- and after deducting the various amounts towards various contributions, he is getting the amount of Rs. 46,523/-, and therefore, the maintenance was granted at the rate of Rs.4,000/- per month each.

2(v). Being aggrieved and dissatisfied with the said judgment and order, the present Revision Application is preferred for enhancement of the maintenance amount.

3. Heard learned Counsel for the Applicants, who submitted that, the Applicants have every right to lead the life as per the status of the husband. The Applicant No.1 is serving and she cannot lead the life as per the status of the

Non-applicant. It is further submitted by him that, more over the Applicant No.1 having a right to admit her daughter in a good School, and therefore, the expenses are to be incurred by her and the amount of Rs. 4,000/- would be a very meager amount to maintain herself as well as her daughter. He submitted that, now a days the prices of the essential commodities are touching to the sky as well as the education costs is also rising day by day. In view of that, the Revision Application deserves to be allowed.

4. In support of his contentions, he placed reliance on the catena of decisions including the decision of ***Rajnesh Vs. Neha & Anr., (2021) 2 SCC 324 & Vishnu Sharma Vs. Ku. Surya, 2015 SCC OnLine MP 2977.***

5. *Per contra*, learned Counsel for the Non-applicant submitted that considering the responsibilities of the Non-applicant that he has to incur the expenses towards his medical treatment as well as medical treatment of his mother and considering the deductions, the amount which is granted by the Family Court towards the maintenance is proper and legal one. If the amount of maintenance is enhanced then there

would be a burden on the present Non-applicant, which would be exorbitant and excessive for him. In view of that, he prays for dismissal of the Revision.

6. After hearing both the sides and on perusal of the entire evidence on record, it is not disputed that, the Applicant No.1 and the Non-applicant are the wife and husband. It is also not disputed that, the Non-applicant is serving in a Government Polytechnic College and drawing a salary of Rs. 60,000/- per month. It is also not disputed that, his mother is also getting a pension of Rs. 11,000/- to 12,000/-. Only the question raised in the present Revision is whether the amount granted by the Family Court is sufficient by considering the needs of the present Applicants or not and whether the Non-applicant is having sufficient means to grant the maintenance or enhance the maintenance. In view of that, the evidence of the Applicant No.1 is material. She has specifically stated in her evidence that, the Non-applicant is doing service in Sakoli as he is Government Servant and he is getting lumpsum salary of Rs. 60,000/- per month and his mother is also getting huge pension of Rs. 12,000/- approximately per month and thus he is having

sufficient means to maintain her and her daughter and no one is dependent on him except she and her daughter. She further justified that, he has deliberately, purposefully and willfully neglecting and avoiding maintaining her and her daughter, and therefore, she is entitled for grant of maintenance.

7. In support of her contention she placed on record the salary certificate which is issued by the Principal, Government Polytechnic College, Sakoli, which shows that the gross salary of the present Non-applicant is Rs. 63,077/- and after deduction the net amount he is receiving Rs. 46,523/-.

8. The Non-applicant has also adduced his evidence and he has also admitted that he is serving, however, it is his contention that his mother is also dependent on him and he has to incur the expenses for medical treatment of his mother as well as towards his medical expenses, and therefore, he has no sufficient means to grant maintenance.

9. The object behind the provision under Section 125 of the Code of Criminal Procedure is required to be taken into consideration.

10. The object of Section 125 of the Code of Criminal Procedure is to provide a summary remedy to save dependents from destitution and vagrancy, and thus to serve a social purpose apart from an independent obligation of the parties under their personal law. Since the object is to prevent vagrancy or destitution by means of a summary remedy before a Magistrate, jurisdiction is preventive rather than remedial or punitive. Foundation of an order Under Section 125 is the neglect or refusal of the opposite party to maintain his wife, child or parents. “Refuse” means a failure to maintain or denial of the obligation to maintain after demand. “Neglect” on the other hand, means a default or omission to maintain, in the absence of a demand. Neglect or refusal may be implied from the conduct of a party and need not be a formal refusal. Refusal or neglect on the part of husband may be proved not only by express words, but also by his conduct. Under Sub Section 4 of Section 125 of Cr.P.C., a wife who without sufficient reason refuses to live with her husband is not entitled for maintenance under Section 125 of Cr.P.C.

11. Torture or illtreatment in the husband's house would be sufficient for refusal by the wife claimant to live with her husband even though the husband may not be guilty personally. Where a wife cannot reasonably hope to live with dignity with her husband she may refused to live with him. The offer must be *bonafide* and the same should not have been made with object to escape the obligation to pay maintenance. The burden that the wife is refusing to live with him is to be discharged by the husband. But when one stand is proved, it is for the wife to show that there are reasons for her living apart from the husband. The object of Section 125 is to arm wife in difficulty with a cause of action to get maintenance from her erring husband. The second proviso to sub section 3 of Section 125 is also relevant. Even though a person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section 126 of the Code notwithstanding such offer, if he is satisfied that there is just ground for so doing.

12. Here in the present case, admittedly, the Non-applicant has not challenged the order of maintenance by filing an appropriate proceeding. This is an Application filed by the wife that the inadequate amount is granted by the Family Court for the maintenance as she has to incur the expenses towards her food, clothing and education of her daughter as well as food, clothing and maintenance towards herself.

13. Now, this issue is well settled as far as the quantum of maintenance is concerned. In a celebrated judgment of ***Rajnish Vs. Neha*** (supra), wherein by referring the various judgments, Hon'ble Apex Court has considered the following factors to be considered for determining maintenance :

"1. Status of the parties.

2. Reasonable wants of the claimant.

3. The independent income and property of the claimant.

4. The number of persons, the non-applicant has to maintain.

5. The amount should aid the applicant to live in a similar lifestyle as he/she enjoyed in the matrimonial home.

6. Non-applicant's liabilities, if any.

7. Provisions for food, clothing, shelter, education, medical attendance and treatment etc. of the applicant.

8. Payment capacity of the non-applicant.

9. Some guess work is not ruled out while estimating the income of the non-applicant when all the sources or correct sources are not disclosed.

10. The non-applicant to defray the cost of litigation.

11. The amount awarded under Section 125 CrPC is adjustable against the amount awarded u/ 24 of the Act.”

Apart from the aforesaid factors enumerated hereinabove, certain additional factors would also be relevant for determining the quantum of maintenance payable and age and employment of parties.

14. Admittedly, the Non-applicant would retire in the year 2046. There is every possibility of increasing in his salary in future also. Admittedly, the mother of the Non-applicant is also getting pension, and therefore, she is not dependent on the income of the present Non-applicant. It is pertinent to note that, the obligation of the husband to provide maintenance stands on a higher pedestal than the wife since the provision for grant of maintenance for the women and children in the concerned statute, in keeping in view the welfare of the child as well as the welfare of the wife. Thus, considering the object behind that

which is welfare legislation the evidence is to be appreciated by the Court.

15. In the present case, considering that the amount granted by the Family Court, admittedly, is inadequate and not sufficient to lead the life. Considering the evidence which is adduced on record sufficiently shows that the Non-applicant is having sufficient means i.e. after deduction also he is getting Rs. 46,523/- and there are chances of increasing in his salary. Even considering that he has to incur the expenses towards his medical treatment than also he is having sufficient means to grant maintenance at the higher rate and considering the prices of essential commodities are touching to the sky as well as the Applicant No.2 is having every right to get good education in a good School and the Non-applicant is under obligation to provide her the good School, and therefore, the Applicant No.2 is entitled for the amount of higher rate.

16. Considering all the circumstances and facts on record, it would be just and proper to grant the maintenance at the rate of Rs. 8,000/- to the Applicant No.1 and at the rate of

Rs. 8,000/- to the Applicant No.2. In view of that, I proceed to pass the following order.

ORDER

- i. Criminal Revision Application is **allowed**.
- ii. The judgment and order of Family Court No.3, Nagpur, is modified.
- iii. The Non-applicant is directed to pay the maintenance to the present Applicants at the rate of Rs. 8,000/- (Rs. Eight Thousand Only) each, from the date of the Application i.e. from 16.04.2018.
- iv. The arrears of difference shall be paid by the Non-applicant within six weeks.

17. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)