



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

CRIMINAL REVISION NO.87 OF 2024

Abdul Raziq Abdul Latif alias Mohammad Raziq Mohammad Latif

Vs.

Sau. Shaila Yasmin Mohammad and others

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

Court's or Judge's orders.

Shri Mahesh Rai, Advocate for applicant.

Shri S.M. Khan, Advocate for respondent nos.1 to 4.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 25.02.2026.

1. By this revision, the respondent no.1's husband is challenged on the order of grant of maintenance by the Family Court, Yavatmal granting maintenance at the rate of ₹2,500/- per month to the respondent nos.1 to 4 and the cost of ₹4,000/- dated 23-08-2022 in Petition No.E-65/2020.

Brief facts which are necessary for the disposal of the petition are as follows.

2. The marriage between the applicant no.1 and the respondent no.1 was performed as per Muslim rights and customs on 04-05-2007. Out of the said wedlock, 2 daughters and 1 son were born, who are the respondent nos.2 to 4. As per the allegations, after 6 months of the marriage, the present applicant started harassing her on the grounds of demand of dowry and money for purchasing new

photo camera. She was abused, taunted and beaten by the present applicant. The father of the respondent no.1 has paid some amount to the present applicant as per his demand, but still there was no change in his behaviour and finally, in the year 2014, he has driven her out of the house along with the children and since then she is residing at the mercy of the parents. There is no source of income for her. The applicant has also not made any provision for her maintenance as well as maintenance of the children. She is unable to maintain herself and the children and therefore she approached the Court for grant of maintenance.

3. It is contended by her that the present applicant is doing the photography business and earning handsome amount and therefore he is having sufficient means to grant maintenance. In view of that, she prayed for grant of maintenance at the rate of ₹5,000/- per month each.

4. The said application was resisted by the present applicant and denied all the contentions. It is submitted that it was the respondent no.1 who was not willing to cohabit with him. The respondent no.1 is working as a teacher in private school and earning ₹20,000/- per month. Therefore, she is having sufficient means to maintain herself as well as her children. It is further contended that he has already filed a petition for restitution of cultural rights in the District Court, Akola. It is contended by him that he is doing the labour work and earning ₹100/- per day by doing the labour

work. In view of that, he is not having sufficient means and prays for dismissal of the application.

5. The respondent no.1 as well as the present applicant both have adduced their evidence before the Trial court. The Family Court has considered the evidence on the record and also considered the status of the parties and granted maintenance at the rate of ₹2,500/- per month to the respondent no.1.

6. Being aggrieved and dissatisfied with the same, the present revision application has been filed by the applicant.

7. During the pendency of this application, the respondent no.1 reported to the Court. Heard learned counsel for the applicant who submitted that there is absolutely no evidence to show that the present applicant is drawing handsome income; rather, he is doing the labour work. Now the respondent no.2 has also attained the age of majority and therefore, she is not entitled for maintenance. He submitted that the respondent no.1 was settled by the petitioner and therefore there are savings of the respondent no.1 which is sufficient to lead the life and therefore, the order passed by the family court granting maintenance deserves to be set aside.

8. *Per contra*, the learned counsel for the respondents submitted that there is no dispute that the respondent no.1

died during the pendency of this application. However, the respondent no.2 though attained the age of majority but she is still dependent on the father as she is unable to earn. As far as the other respondents are concerned, they are minor. They are taking education. Being a father, it is the duty of the present applicant to maintain them but he has not provided any maintenance to them. In view of that, the revision application deserves to be dismissed.

9. On hearing both the sides and on perusal of the entire record, it reveals that the respondent no.1 during her lifetime has adduced her evidence. She has specifically stated that she was driven out of the house and since then no provision was made for her maintenance as well as maintenance of the children. She has also issued the notice which was filed at Exhibit-16 and despite the service of notice, the present applicant has not taken her for cohabitation or not made any provision for her maintenance. Though she was examined on behalf of the present applicant, nothing material was brought on record to discredit her. Since 4 years, she was residing along with her children at the mercy of her parents and the present applicant has not made any provision for their maintenance. The evidence of the respondent no.1 during her lifetime adduced was not shaken during the cross-examination also. There is no dispute as to the relationship itself. Admittedly, the respondent nos.2 to 4 were minor at the relevant time. Though the respondent no.2 has now attained the majority

but nothing has brought on record to show that she is independent and now she is not dependent on the income of her father.

10. The applicant has also adduced the evidence before the trial Court and he has attempted to state that the respondent no.1 during her lifetime was doing the job of a teacher and was earning a handsome amount. However, this contention was not substantiated by any documents. On the contrary, the evidence on record shows that the present applicant has treated the respondent no.1 with cruelty for demand of money for purchasing the camera. In cross-examination, it was suggested to the present applicant that he is doing photographic business when he stated that photographic business is closed and now he is doing labour work. As far as his contention is concerned, that he is doing labour work and earning Rs.100 per day is not acceptable in today's scenario. In today's scenario, even if a person is doing labour work, he would get Rs.300-400 per day from the labour work and therefore, the contention of the present applicant that as he is doing labour work and therefore, he is unable to maintain his position is not acceptable. While determining the quantum maintenance, it is necessary to take into consideration the following factors i.e. status of the parties, need of the claimants, independent income and property of the claimants, number of persons the non-applicant has to maintain, the amount to aid the applicant to live in a similar lifestyle as he / she enjoyed in the

matrimonial home, respondents' liabilities, provision for food, clothing, shelter, education, medical attendance, treatment, etc., payment capacity of non-applicant, guesswork when income not fully disclosed, and the cost of litigation.

11. Admittedly, there is no documentary evidence as far as the income of the present applicant is concerned and therefore, the Court has to rely upon the guesswork. Even accepting the condition that the applicant is doing the labour work, nowadays, labourers also get the amount of fiscal aid to Rs.300 to Rs.400 per day from the labour work. The respondent no.2, though attained by the age of majority there is nothing on record to show that she is independent and earning her income. Therefore, the contention of the applicant that she is not entitled for the maintenance is not accepted for the reason that being the father of the children, he is under obligation to maintain the children. Now, the prices of the essential commodities are touching to the sky.

12. In that view of the matter, the amount of Rs.2,500/- per month for each respondents is not excessive and exorbitant amount to the applicant. In view of that, the revision is devoid merits and liable to be rejected. Accordingly, it is rejected.

(Urmila Joshi-Phalke, J.)

Manisha