



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

CRIMINAL REVISION APPLICATION NO. 154 OF 2022

Sudhir Murlidhar Makhare.Vs. Sau. Sunita Sudhir Makhare and ors.

WITH

CRIMINAL REVISION APPLICATION NO. 198 OF 2024

Sau. Sunita Sudhir Makhare and ors. Vs. Sudhir Murlidhar Makhare

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

Mr S.D. Chande, Advocate for the applicant in Revn.No.154/2022.

Mr. R.T. Anthony, Advocate for non-applicant in Revn. No.154/2022.

Ms Remelina R. Anthony, Advocate for applicants in Revn. no.198/2022.

CORAM : URMILA JOSHI PHALKE, J.

DATE : 25.02.2026

Both these revision applications challenge the judgment and order of Family Court dated 4.05.2022 granting maintenance to the non-applicant Nos.2 and 3 @ of Rs.6,000/- (Rs. Six Thousand Only) per month each from the date of application i.e. 14.10.2015.

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

Marriage of the non-applicant No.1 and the applicant in revision application No.154/2022 was solemnized on 29.06.2009 at Buldhana and other non-applicant nos.2 and 3 are children of applicant and non-applicant No.1 and born out from the said wedlock. After marriage non-applicant No.1 has resumed cohabitation. As per her allegations for some years she was treated well and thereafter applicant started beating her on pity reasons. He drove her out of the house. Therefore, she filed an application

under Section 125 of Cr.P.C. bearing application No.25/2012. Settlement was arrived at before the Court between them. Thereafter, she again started residing with present applicant husband but there was no change in his behaviour. He was addicted to bad vices. He refused and neglected to maintain her even he did not pay the rent of the rented premises where they were residing. Finding it difficult she was constrained to leave the matrimonial house and took shelter of her parents house. She contended that present applicant is working as Teacher at Zilla Parishad and his salary is Rs.40,000/- p.m. at the time of filing the application. More over he is engaged with taking the tuition classes from which he is earning amount more than Rs.30,000/- per month and therefore, she claims maintenance @ Rs.20,000/- per month towards maintenance.

3. Said application is strongly opposed by the applicant-husband on the ground that with false, baseless allegations he was implicated in criminal case also from which he is already acquitted. It is further contention of the present applicant that without any sufficient reasons she has left the matrimonial house. More over he alleged that she was living an adulterous life and there is dispute as to paternity of the children also. Therefore on that ground, the application deserves to be rejected.

4. After considering the entire evidence on record Family Court has considered that there was refusal and neglect on the part of the present applicant and he is under obligation to maintain the children as the non-applicant No.1-wife is earning amount of

Rs.10,000/- per month by way of honorarium and therefore, she is not entitled for any maintenance and maintenance was granted to the non-applicant Nos.2 and 3 who are children.

5. Being aggrieved and dissatisfied by the same the present revision application No.154/2022 is filed by the applicant-husband and another application No.198/2024 is filed by the non-applicant No.1-wife for enhancement of the maintenance and for grant of maintenance to herself.

6. Heard learned counsel for the applicant and non-applicants respectively in both revisions.

7. It is submitted by Mr Chande that he has filed reply of the counter revision wherein he has specifically stated that non-applicant No.1 is leading adulterous life. Therefore, she is not entitled to maintenance. He submitted that he has already prayed for remand of the original application and therefore, on that ground also, she is also not entitled for maintenance. He further submitted that Family Court has not considered that applicant has to pay the loans by paying the installments as well as his mother is suffering from cancer and he has to incur the expenses towards medical expenses of his mother. He is not having sufficient means to pay amount of Rs.6,000/- each as maintenance towards non-applicant Nos.2 and 3. For all above these grounds, he prays for quashing of the order passed by the Family Court.

8. Per contra learned counsel for non-applicant Nos.1 to 3 submitted that now children are taking education. Non-applicant No.1 has to incur the expenses towards their education, food clothing etc. Now prices of the essential commodities are touching to sky. In these circumstances, it would be difficult for her to manage the life in meager amount of Rs.6,000/-. He submitted that now due to various pay commissions there is hike in the salary of the present applicant. Therefore, he can provide maintenance to the non-applicant Nos.2 and 3 at a higher rate. In view of that, revision application filed by applicant-husband deserves to be rejected and amount of maintenance requires to be enhanced.

9. After hearing both the sides and on perusal of the impugned judgment as well as evidence which is produced on record, it is relevant that before birth of the child there is no dispute between husband and wife. After birth of two children dispute arose between husband and wife. It is alleged by the non-applicant-wife that initially also she has filed criminal application No.25/2012 but settlement arose between husband and wife and she again started residing along with the present applicant-husband. She specifically stated that applicant-husband started suspecting her character, used to beat under influence of liquor and was not contributing to household expenses. Therefore, there was no alternative for her to leave the matrimonial house and took shelter of her parents house. She in her evidence also deposed that she is ill treated by the present applicant for various reasons and for not providing the amount to lead or to fulfill the needs of her as well as her children. She was constrained to leave the matrimonial

the house and she has filed the application for maintenance. She has also stated in her evidence that her honorarium is very meager and that honorarium amount is not sufficient to maintain herself as well as her children. For all these grounds also she claimed the maintenance. The Family Court has considered all these aspects. Learned counsel for the applicant submitted that applicant has to pay loan amounts. She has placed on record some documents which shows that she has obtained the loans from various banks as well as medical certificates show that he has incurred the expenses towards treatment of his mother also. At the same time, it is undisputed that he is serving as a teacher. Now 7th Pay Commission is already applicable. There is a hike in his salary. Thus, considering all these aspect Family Court has granted maintenance at the rate of Rs.6,000/- each to the non-applicant Nos.2 and 3.

10. As far as contention of learned counsel Mr. Chande is concerned, that non-applicant No.1-wife was living adulterous life when husband is coming with case that wife is living the adulterous life the burden is on the husband to prove the same. Even considering this reply which is filed in the cross-revision which nowhere shows any specific instance narrated by him as per as adulterous life lead by non-applicant No.1-wife is concerned. Mere allegation is not sufficient to infer that non-applicant No.1-wife is living the adulterous life and therefore, she is not entitled for the maintenance. Therefore, this contention is not sustainable. Moreover if the applicant-husband wants to lead the evidence he is having another remedy under Section 127 of Cr.P.C. for setting aside or quashing the maintenance order by adducing the evidence.

11. As far as this revision is concerned, on perusal of the judgment of the Family Court it reveals that there is refusal and neglect on the part of the applicant-husband and thereby Family Court has granted maintenance to the children @ Rs.6,000/- per month each. Family Court has also considered that 7th Pay Commission is made applicable and therefore, applicant is having sufficient means to pay maintenance. Even accepting that applicant has to incur expenses towards payment of loan amount and to incur expenses towards treatment of his mother but then also, he cannot deny the responsibility of his children. He is under obligation to incur expenses towards education of his children. As far as grant of maintenance is concerned, guidelines are issued by Hon'ble Apex Court in the case of ***Rajnish vs. Neha and another*** in ***Criminal Appeal No.730/2020 AIR 2021 SC 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.

12. A careful and just balance must be drawn between all the relevant factor and on drawing the said balance between all these aspects, admittedly, the non-applicant No.1 has to incur the expenses towards the food clothing and education. Now the prices of the essential commodities are touching to the sky. The cost of the education is rising day by day. In view of that, the amount of maintenance granted by the Family Court at the rate of Rs.6,000/- p.m. each to the non-applicant Nos.2 and 3 is not exhaustive and exorbitant. The applicant is having sufficient means. He is serving as a teacher in the Zilla Parishad. Therefore, the contention of the applicant that he is not having sufficient means for maintenance is not sustainable.

13. In view of that, both the revision application being devoid of merits and liable to be dismissed.

Accordingly, I proceed to pass the following order:-

(i) Criminal Revision Applications are dismissed.

Pending applications, if any also stand disposed of.

(URMILA JOSHI PHALKE, J.)