

MHRG140012982024



ORDER BELOW EXH-8

1. This order shall dispose of an application filed by the Applicant at Exhibit-8 seeking permission to amend the main application filed for the recovery of maintenance under Section 147 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) (formerly Section 128 of the Code of Criminal Procedure, 1973).
2. Facts in brief leading to the filing of the present application are that the Applicant, Smt. Vaishali Ratnadip Mhatre, along with her two minor children, namely Master Rudra Ratnadip Mhatre and Kumari Swara Ratnadip Mhatre, had preferred an application under the Protection of Women from Domestic Violence Act, 2005 (DV Act), bearing Cri.M.A. No. 120/2020. The said application was decided on 02/02/2024, wherein this Court was pleased to grant monthly maintenance of Rs. 10,000/- to the Applicant/wife and Rs. 5,000/- each to the minor children, Rudra and Swara. The total monthly maintenance awarded was Rs. 20,000/-.
3. The Applicant subsequently preferred the present recovery proceeding, bearing Cri.M.A. No. 66/2024, to recover the outstanding

Cri. M. A. 66/2024
Vaishali Vs. Ratnadeep
Exh-8

maintenance. However, due to typographical, inadvertent errors and miscalculations, the monthly maintenance rate was mistakenly mentioned as Rs. 15,000/- instead of Rs. 20,000/-, and consequently, the total calculated arrears were incorrectly recorded as Rs. 6,60,000/- and Rs. 7,65,000/- instead of Rs. 8,80,000/- and Rs. 9,85,000/-, respectively.

4. By way of the present application (Exh. 8), the Applicant seeks to carry out the following amendments in the interest of justice and to reflect the correct factual matrix on record:

- i) In Para No. 2, Column No. 1: Replace 'Rs. 15,000/- (Rupees Fifteen Thousand only)' with 'Rs. 20,000/- (Rupees Twenty Thousand only)'.
- ii) In Para No. 2, Column No. 3: Replace 'Rs. 6,60,000/-' with 'Rs. 8,80,000/-'.
- iii) In Para No. 2, Column No. 3: Replace 'Total amount Rs. 7,65,000/-' with 'Total amount Rs. 9,85,000/-'.
- iv) In Para No. 3, Line No. 4: Replace 'Rs. 15,000/- monthly maintenance' with 'Rs. 20,000/- monthly maintenance'.
- v) In Para No. 3, Line No. 5: Replace 'Rs. 6,60,000/- (Rupees Six Lakh Sixty Thousand only)' with 'Rs. 8,80,000/- (Rupees Eight Lakh Eighty Thousand only)'.
- vi) In Para No. 4, Line No. 4: Replace 'Rs. 7,65,000/- (Rupees Seven Lakh Sixty Five Thousand only)' with 'Rs. 9,85,000/- (Rupees Nine Lakh Eighty Five Thousand only)'.

vii) In Para No. 5, Prayer Clause (a): Replace 'Total amount Rs. 7,65,000/- (Rupees Seven Lakh Sixty Five Thousand only)' with 'Total amount Rs. 9,85,000/- (Rupees Nine Lakh Eighty Five Thousand only)'.

5. Heard. The learned Advocate for the Applicant argued that these corrections are purely clerical and mathematical in nature, intended to bring the pleadings in alignment with the final judgment passed in Cri.M.A. No. 120/2020 on 02/02/2024. No new cause of action is introduced, and no prejudice will be caused to the Respondent.

6. It is a settled position of law that although there is no explicit provision for the amendment of pleadings in the Code of Criminal Procedure, 1973, or the newly enacted Bharatiya Nagarik Suraksha Sanhita, 2023, the courts are not powerless to allow amendments of a formal, clerical, or typographical nature which do not prejudice the substantive rights of the parties.

7. In the landmark case of '**Kunapareddy alias Raoji vs. Kunapareddy Swarna Kumari**', **2016 (11) SCC 328**, the Hon'ble Supreme Court held that in quasi-civil or maintenance-related proceedings, the court has the power to allow amendments to the petition to prevent multiplicity of litigation and to ensure complete justice. Similarly, in '**S.R. Sukumar vs. S. Sunaad Raghuram**', **2015 (9) SCC 609**, the Hon'ble Supreme Court observed that if an

Cri. M. A. 66/2024
Vaishali Vs. Ratnadeep
Exh-8

amendment sought is formal, does not change the basic character of the case, and causes no prejudice to the other side, it can be allowed.

8. In the present matter, the recovery proceedings are initiated for the execution of a final judgment passed in Cri.M.A. No. 120/2020 on 02/02/2024. A perusal of the certified copy of the said judgment clearly reveals that this Court had awarded Rs. 10,000/- per month to the Applicant/wife and Rs. 5,000/- per month each to the two minor children, Swara and Rudra. Therefore, the legally enforceable liability of monthly maintenance is indeed Rs. 20,000/-. The mentions of 'Rs. 15,000/-', 'Rs. 6,60,000/-', and 'Rs. 7,65,000/-' in the original application are patently clerical, mathematical errors.

9. Allowing the Applicant to correct these calculations will not change the nature of the recovery proceeding, nor will it establish any new liability that was not already determined in the main domestic violence proceeding. The Respondent will have an equal opportunity to file his say to the amended application and dispute the actual arithmetic calculation or show payments made, if any. Therefore, no prejudice or irreparable loss will be caused to the Respondent. Rejecting this application would result in a miscarriage of justice and lead to a multiplicity of legal actions. In view of the above, the application deserves to be allowed. Hence, the following order is passed:

ORDER

1. This Application for Amendment (Exhibit-8) is hereby allowed.
2. The Applicant is permitted to carry out the necessary amendments in the main application (Cri.M.A. 66/2024) as detailed in Exhibit-8 within fourteen (14) days from the date of this order.
3. The Applicant shall serve a copy of the amended application to the Respondent immediately after carrying out the amendments.
4. The Respondent is at liberty to file an written statement/say to the original/amended application.

Uran,
Date – 30.05.2026

S. P. Wankhade
Judicial Magistrate F. C. Uran