IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION (FOR MAINTENANCE) NO. 866 of 2016
With
CRIMINAL MISC.APPLICATION (DIRECTION) NO. 1 of 2017
In R/CRIMINAL REVISION APPLICATION NO. 866 of 2016

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR
==

Approved for Reporting	Yes	No

==
UJJAVAL DEVENDRABHAI RAVAL
Versus
STATE OF GUJARAT & ORS.
==
Appearance:
MR K S CHANDRANI(6674) for the Applicant(s) No. 1
MR PR ABICHANDANI(102) for the Respondent(s) No. 2
MR ROHAN RAVAL, APP for the Respondent(s) No. 1
RULE SERVED BY DS for the Respondent(s) No. 3
==
CORAM:**HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**

Date : 02/04/2026
JUDGMENT

1. By way of the present application, the applicant has requested this Court to quash and set aside the judgment and order dated 23.08.2016 passed by the learned Judge, Family Court, Rajkot in Criminal Misc. Application No.412 of 2014.

2. It is the case of the applicant that the applicant and respondent No.2 were married on 01.12.2011 as per Hindu rites and their marriage was duly registered. After marriage, respondent No.2 intermittently resided at her matrimonial home and parental home. Initially, she resided with the applicant in a joint family, however, on her insistence for a separate residence, the applicant started residing with her in a rented premises from March 2012. Out of the wedlock, a son, namely Samarth, was born on 18.12.2012. Thereafter, disputes arose between the parties and respondent No.2 started residing at her parental

home. On 03.04.2014, she lodged an FIR before Mahila Police Station, Rajkot being I-C.R. No.25/2014 for the offences punishable under Sections 406, 498A, 354, 323, 504, 506(2) read with Section 114 of IPC and Sections 3 and 4 of the Dowry Prohibition Act against the applicant and his family members alleging harassment and dowry demand. Subsequently, respondent No.2 filed Criminal Misc. Application No.412 of 2014 under Section 125 of the Cr.P.C. seeking maintenance for herself and the minor son. By order dated 23.08.2016, the learned Family Court partly allowed the application and directed the applicant to pay maintenance of Rs.10,000/- per month to respondent No.2 and Rs.5,000/- per month to the minor son, totaling Rs.15,000/- per month.

3. Heard learned advocates for the respective parties.

4. Learned advocate for the applicant submitted that the impugned order passed by the learned Family Court is unjust, illegal, perverse and contrary to the provisions of Section 125 of the Code of Criminal Procedure. It was submitted that the learned Judge failed to appreciate the evidence on record in its true perspective and wrongly relied solely upon the uncorroborated version of respondent No.2 while ignoring the oral and documentary evidence produced by the applicant. It was further submitted that respondent No.2 had voluntarily left the matrimonial home without any justifiable cause and was unwilling to reside with the applicant despite his readiness to maintain and take her back. It is submitted that the allegations of harassment, dowry demand, physical and mental cruelty are

vague, contradictory, baseless and made only with a view to harass the applicant and his family members. It is submitted that respondent No.2 insisted upon a separate residence despite being aware before marriage that the applicant was required to reside with and look after his aged parents. Learned advocate further submitted that respondent No.2 had initiated several proceedings including criminal prosecution, proceedings under the Domestic Violence Act and maintenance proceedings only with an intention to pressurize the applicant and his family members. It is also argued that the learned Family Court wrongly assessed the income of the applicant at Rs.25,000/- per month without any cogent evidence on record, despite the material produced by the applicant showing that his annual income was much lower. The respondent No.2 is well educated, holds an MBA degree, is capable of earning and is therefore not entitled to maintenance. In any case, the total maintenance of Rs.15,000/- per month awarded in favour of respondent Nos.2 and 3 was stated to be excessive, particularly when respondent No.2 had already been awarded maintenance in separate proceedings under Section 24 of the Hindu Marriage Act. It was therefore submitted that the impugned order being excessive, arbitrary and passed without proper appreciation of evidence deserves to be quashed and set aside.

5. Learned advocates appearing for the respondents opposed the application and supported the impugned order passed by the learned Family Court by submitting that the same has been passed after proper appreciation of the oral as well as documentary evidence on record and does not suffer from any

illegality or perversity. It was submitted that respondent No.2 was subjected to mental and physical cruelty and was compelled to leave the matrimonial home due to continuous harassment and dowry demands raised by the applicant and his family members. It was further submitted that respondent No.2 had no option but to reside separately and the allegation that she voluntarily deserted the applicant is false and contrary to the record. Learned advocate submitted that merely because the applicant expressed willingness to keep respondent No.2 with him would not disentitle her from maintenance when she was compelled to leave the matrimonial home on account of cruelty and harassment. It was further argued that respondent No.2 had consistently narrated the incidents of ill-treatment in her application as well as evidence and the same was duly believed by the learned Family Court. Learned advocate further submitted that the applicant had failed to disclose his true income and the learned Family Court rightly assessed his earning capacity considering his standard of living, family background and evidence on record. It was also submitted that respondent No.2 is residing separately along with the minor son and is required to incur expenses towards food, residence, education and day-to-day necessities, and therefore the amount awarded by the learned Family Court cannot be said to be excessive. It was submitted that even if respondent No.2 is educated, mere educational qualification does not disentitle her from claiming maintenance unless it is shown that she is actually earning sufficient income to maintain herself and the minor child. Learned advocate therefore submitted that the impugned order is just, proper and in accordance with law and

no interference is called for by this Hon'ble Court.

6. Having heard the learned advocates for the respective parties and considering the contents of the application as well as the conclusions of the learned court, it is evident that the wife is unable to maintain herself and has been neglected by her husband. Furthermore, it is important to note that the mere fact that the wife is earning or she is able to maintain herself is not a valid ground to reject her claim for maintenance. In this regard, this Court finds it appropriate to refer to the judgment delivered by the Hon'ble Apex Court in ***Sunita Kachwaha and Ors. vs. Anil Kachwaha*, reported in (2014) 16 SCC 715**. In that case, the wife, who was living separately, sought maintenance from her husband. The husband objected on the ground that the wife had sufficient means to maintain herself, but this argument was rejected by the Hon'ble Apex Court. It was held that merely because the wife is earning and may be highly qualified cannot be a reason to deny her claim for maintenance. The relevant observation made in paragraph 9 of the judgment is reproduced as follows:

> *"Inability to maintain herself is the pre-condition for grant of maintenance to the wife. The wife must positively aver and prove that she is unable to maintain herself, in addition to the fact that her husband has sufficient means to maintain her and that he has neglected to maintain her. In her evidence, the appellant-wife has stated that only with the help of her retired parents and brothers, she is able to maintain herself and her daughters, while her husband's economic condition is quite good and the wife was entitled to maintenance."*

7. In view of the above, this Court is of the considered opinion

that the mere earning capacity of the wife cannot be the sole ground to deny maintenance. The objection raised by the husband against the claim of the wife for maintenance is therefore unsustainable. While considering an application under this provision at the instance of a destitute wife, helpless children or parents, the Court is dealing with the marginalized sections of society. The object of granting maintenance is to achieve social justice in furtherance of the constitutional vision embodied in the Preamble to the Constitution of India. In this regard, this Court deems it appropriate to refer to the judgment of the Hon'ble Apex Court in **Rajneesh vs. Neha, (2021) 2 SCC 324**, wherein, in paragraph 49, it has been held as follows.

> *"49. Section 22 provides that the Magistrate may pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence perpetrated by the respondent. Section 23 provides that the Magistrate may grant an ex parte order, including an order under Section 20 for monetary relief. The Magistrate must be satisfied that the application filed by the aggrieved woman discloses that the respondent is committing, or has committed an act of domestic violence, or that there is a likelihood that the respondent may commit an act of domestic violence. In such a case, the Magistrate is empowered to pass an ex parte order on the basis of the affidavit of the aggrieved woman."*

8. From the various judgments of the Hon'ble Supreme Court as well as learned High Court, it can be said that the husband cannot escape from his liability to maintain his wife or children because it is the legal and ethical duty of the husband to maintain them. It is the duty of the husband to maintain his wife and to provide financial support to her and their children and he

cannot shirk his responsibility as husband as well as father to maintain his legally wedded wife and children, which is his social and lawful duty towards them and the wife and children would be entitled to the same standard of living, which they were enjoying while living with them. In this regard reference is required to be made in the case of **Bhuwan Mohan Singh vs Meena**, reported in **2015 (6) SCC 353**.

9. In the light of above-mentioned precedents, it appears that the impugned order deciding the application can not in any way affect the finality of the dispute between the parties. The applicant has failed to point out any patent error in the impugned order or any miscarriage of justice. The family Court has assigned proper reasons while passing the impugned order and therefore no case is made out for interference with the concurrent findings. The application fails to satisfy the test for exercising revisional jurisdiction in light of the scope of revision laid down by the Hon'ble Apex Court in ***Amit Kapoor vs. Ramesh Chander*, 2012 (9) SCC 460**.

10. Accordingly, the present revision application stands dismissed.

11. Since the main matter is disposed of, the present Criminal Misc. Application for direction does not survive. Hence, the same is disposed of accordingly.

(HASMUKH D. SUTHAR,J)

ALI