



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL REVISION APPLICATION (FOR MAINTENANCE) NO. 616 of
2022
With
CRIMINAL MISC.APPLICATION (DIRECTION) NO. 1 of 2022
In R/CRIMINAL REVISION APPLICATION NO. 616 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Approved for Reporting	Yes	No

[REDACTED]
versus
STATE OF GUJARAT & ANR.

Appearance:

MAULIK H VAGHELA(7810) for the Applicant(s) No. 1
MS KHUSHBU M AMLANI(9868) for the Applicant(s) No. 1
MR YASH H JOSHI(6495) for the Respondent(s) No. 2
MS SHRUTI PATHAK, APP for the Respondent(s) No. 1

CORAM: HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Date : 06/04/2026
JUDGMENT

1. By way of the present application, the applicant has requested this Court to modify the impugned order dated 11.01.2022 passed by the Family Court, Ahmedabad in Criminal Misc. Application No.2787 of 2016 and to award at least Rs.25,000/- per month as maintenance to the present applicant.

2. It is the case of the applicant that the marriage between the petitioner and respondent No.2 was solemnized on 29.12.2008 at Asarva, Ahmedabad as per Hindu rites and rituals. Initially, the matrimonial life of the parties was cordial; however, after about six months of marriage, the petitioner was allegedly subjected to physical and mental harassment by respondent No.2 and his family members on account of dowry



demands and the fact that it was a love marriage. It is the case of the petitioner that respondent No.2, who is engaged in singing and organizing musical events in India and abroad, including in the UK, Africa and Kenya, earns substantial income but became addicted to alcohol and started ill-treating the petitioner. Thereafter, the parties started residing separately in a rented premises from December 2013, but even thereafter, the petitioner continued to face physical and mental cruelty, due to which she returned to her parental home. Ultimately, due to the conduct of respondent No.2, the petitioner signed a divorce deed dated 26.05.2016. Since respondent No.2 failed to make any arrangement for her maintenance, the petitioner filed Criminal Misc. Application No.2787 of 2016 under Section 125 of the Cr.P.C. before the Family Court, Ahmedabad. Though interim maintenance of Rs.2,000/- per month was awarded, respondent No.2 failed to comply with the same, resulting in several recovery proceedings, including an order imposing imprisonment for non-payment. It is further the case of the petitioner that despite the respondent admitting in his cross-examination that he is engaged in singing and organizing musical shows and has travelled abroad for the same, the learned Family Court, Ahmedabad, by judgment and order dated 11.01.2022 passed in Criminal Misc. Application No.2787 of 2016, awarded only Rs.10,000/- per month as maintenance, which according to the petitioner is grossly inadequate considering her medical condition, needs and the income of respondent No.2.

3. It appears that Criminal Revision Application No.319 of 2022 filed by the husband, challenging the order passed by the



learned Family Court, came to be rejected by the Coordinate Bench of this Court vide order dated 01.02.2023.

4. So far as the present applicant is concerned, she is the wife and has challenged the order on the ground that the learned Family Court has failed to award just maintenance and has not properly considered the fact that respondent No.2 earns substantial income from singing work and organizing musical shows, which is established on record. Despite such evidence, the learned Family Court failed to properly consider his income while awarding maintenance and did not award at least Rs.20,000/- per month towards maintenance.

5. Perusing the record, it appears that since 26.05.2016, the applicant has been living as a divorcee. It is a settled principle of law that a divorced wife is also entitled to maintenance and, as per social welfare legislation, it is the duty of the husband to maintain his wife. Merely because the applicant possesses an LL.B. degree cannot be a ground to refuse maintenance and the said aspect has also been considered by the Family Court. Below Exhibit 44, a statement regarding responsibility and liability has been filed and the applicant has admitted that she is practising as an advocate, whereas the respondent-husband is engaged in singing work and organizing musical programmes. Below Exhibit 39, he has tendered his evidence and stated that he is earning Rs.200/- to Rs.250/- per day. It also appears that after the divorce, the husband entered into a second marriage and has one son. He has also produced a statement of liabilities. The



learned Family Judge has considered his income to be Rs.33,000/- per month in the absence of any documentary evidence and by applying the able-bodied principle. At the same time, the Family Court has considered the fact that the husband has to maintain his second wife and son and, therefore, awarded Rs.10,000/- per month towards maintenance, which appears to be just and proper, as approximately one-third of his income has been awarded towards maintenance. Nothing has come on record to show that the learned Family Judge committed any error in considering the income of the respondent-husband at Rs.30,000/- to Rs.33,000/- per month.

6. 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**.

7. In the light of above it appears that 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.***

8. Accordingly, the present revision application stands dismissed.

9. Since the main matter is disposed of. The Criminal Misc. Application for direction does not survive. Hence, the same is disposed of as does not survive.

10. However, if there is any change in circumstances in future and any modification or alteration in the amount of maintenance is required, it shall always be open for the applicant-wife to file an appropriate application under Section 127 of the Cr.P.C. before the concerned Court.

(HASMUKH D. SUTHAR,J)

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