

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CRIMINAL REVISION APPLICATION (FOR MAINTENANCE) NO. 471 of
2014****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE G.R.UDHWANI**

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| 1 | Whether Reporters of Local Papers may be allowed to see the judgment ? | |
| 2 | To be referred to the Reporter or not ? | |
| 3 | Whether their Lordships wish to see the fair copy of the judgment ? | |
| 4 | Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ? | |

DARSHANBEN BHAVINBHAI BHATT & 1....Applicant(s)

Versus

BHAVINBHAI PRADHYUMANBHAI BHATT & 1....Respondent(s)

Appearance:

MR SP KOTIA, ADVOCATE for the Applicant(s) No. 1 - 2

MR RAJESH R DEWAL, ADVOCATE for the Respondent(s) No. 1

MS. MOXA THAKKAR ADDL. PUBLIC PROSECUTOR for the Respondent(s)
No. 2

CORAM: HONOURABLE MR.JUSTICE G.R.UDHWANI

Date : 31/08/2015

ORAL JUDGMENT

1. The petitioner no.1 is the wife and petitioner no. 2 is the

minor child of respondent no.1. The petitioner instituted an application under section 125 of Criminal Procedure Code (for short “Cr.P.C”) for maintenance which was rejected by order dated 27th May 2014 by learned Principal Judge, Family Court, Bhavnagar. Aggrieved by the said order this petition is filed.

2. If the case of the petitioner is considered in the application under section 125 of Cr.P.C, less than superfluous allegations emerge from her testimony that the respondent has arisen from the salary of Rs 3,500/- on the date of his marriage to Rs 1 lakh when he joined the job at Bangalore. When he went to Bangalore the petitioner was summoned there and she went accompanied with her mother-in-law and her father. After 2 ½ months stay of her mother-in-law, and 1 ½ stay of her father, the petitioner was left along with respondent-husband. It appears that the petitioner was habitual in raising dispute on trivial aspect without specifying the details of so-called harassment from the respondent or his relatives. While pregnant, her parents-in-law and other relatives of the respondent were called in to help her. She alleged that she was not taken care when she was ill but at the same time admits the respondent having asked her to consult hospital better than what she did in Bhavnagar during

her pregnancy. Both her sister-in-law were married before the marriage of the petitioner. It was also admitted by the petitioner that her sister also stayed at Bangalore for a considerable period with her. It however, transpires that facility in air plane for her travel to Bangalore was arranged by respondent at one point of time. It also appears from her evidence that the complaint by her husband and in-laws were in relation to her conduct on trivial matter as she used to pick up quarrel with them. In short from the testimony of the petitioner no reason justifying her separate stay from the respondent is borne out.

3. Her cross-examination shows that at the time of her engagement with respondent no.1 herein he was earning Rs 3,500/- and thereafter he went to Bangalore and ultimately he started earning substantial amount. It is also noticed in the cross-examination and other relevant material that the petitioner no.1 had always travelled from Bangalore to Bhavnagar, and Pune whenever the occasion arose, through air at the cost of respondent no.1 herein. It also appears that the respondent no. 1 was employed and all the time during the petitioner used to occupy the house alone and therefore, the trial court has rightly concluded that there was no occasion for the respondent no.1 to harass petitioner no1. It also transpires from

the evidence on record that for enabling the petitioner no.1 to come from Pune to Bangalore air tickets were arranged by respondent no.1 herein.

4. Thus, the trial court considered the above stated evidence and also other evidence which clearly indicated that the allegations of the petitioner no.1 were diagonally opposite to the conduct of respondent no.1 who cared for the petitioner no.1 so much so that despite the respondent no.1 having a rise from Rs 3,500/- per month to a substantial salary may be Rs 60,000/- or Rs 1, 60,000/-, afforded air fare for her whenever she travelled to Bangalore and Pune and never once during the span of five years she was made to travel in a transport other than by air. It also transpires from record that, the young sister of petitioner no.1 had stayed for more than 1 ½ month for her treatment at Bangalore at the house of respondent no.1. Thus, it is difficult to accept the allegations of dowry against the person who is so large hearted that his wife travels by air all the time. If money was the reason for harassment, the first respondent would not have spend the money towards her air fare.

5. Under the circumstances, the argument made by learned counsel for the petitioners that the trial court has committed error in appreciating the evidence and the order passed by it is

incorrect and illegal cannot be accepted. This Revision Application, therefore, fails and is dismissed.

6. It is clarified that this order shall dispose of the case in so far as the petitioner no. 1 is concerned and so far as the petitioner no. 2 is concerned right to move separate Revision Application is reserved to him.

(G.R.UDHWANI, J.)

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