

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7633 OF 2021

Anil Chandravadan Mistry] ... Petitioner

Vs.

The State of Maharashtra & Ors.] ... Respondents

...

Mr. Anand Mishra i/b Mr. Ashok M. Saraogi for the petitioner.

Ms. Prabha U. Badadare for respondent No.2.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 16TH JUNE, 2022.

P.C.:-

1. Heard learned counsel for the petitioner and learned counsel for respondent No.2.

2. The petition is filed by the husband, being aggrieved by the order passed by the Family Court in Petition No.A-2919 of 2014, below Exh.50. By the said order, the application filed by the petitioner-husband subsequent to seeking modification of the earlier order dated 01/09/2018, pursuant to the liberty obtained

from this court on 04/01/2021, in Writ Petition No.13733 of 2018 came to be rejected.

3. The marital discord between the husband and the wife, need not be gone into, in order to determine the legality of the impugned order. Suffice it to note that, out of the wedlock, one son and one daughter were born and both are, now major. The respondent-wife filed an application under Section 24 of the Hindu Marriage Act for maintenance *pendente lite* and by order dated 01/09/2018, the application came to be allowed and the husband was held liable to pay an amount of Rs.25,000/- per month towards maintenance of his daughter, who was major, from 17/07/2015 till final disposal of the main petition.

4. Being aggrieved by the said order, the petitioner has approached this court by filing Writ Petition No.13733 of 2018 and on 04/01/2021, sought its withdrawal with liberty to move for modification of the impugned order before the Family Court based on the subsequent developments.

5. Liberty as sought for, was granted and resultantly, he moved an application, Exh.-50, seeking modification of the order dated 01/09/2018 by pleading that his daughter is major and completed her education and she is working and earning sufficiently for her own maintenance.

6. Learned Judge while considering the said application, considered order dated 04/01/2021 as nub of the issue by recording that the withdrawal of the petition was sought with liberty to file an application for modification based on the “subsequent developments”. Considering the aspect that what are the “subsequent developments”, learned Judge of the Family Court recorded that the settled position of law is to the effect that even when a daughter becomes major, she is entitled for maintenance from her father till her marriage and, as can be seen from the provisions of Section 24 of the Hindu Marriage Act, there is no embargo for the maintenance not being paid by the father in favour of the daughter, who is major. As far as the second ground for modification is concerned, it is to the effect that she on her own, earns a handsome income from her modeling career. After considering the evidence placed on record being, the printed copies of the photographs posted by his daughter in the social media like instagram and her instagram biography, where she has claimed that she earns an income of Rs.72 lakhs to Rs.80 lakhs, learned Judge, in my considered opinion, has rightly recorded that the photographs of instagram and her instagram biography is not sufficient to hold that she has independent and sufficient income.

7. It is well known fact that it is the habit of the youth of today, to project a glossy picture and posting the same in the social media though its contents may not be always true. Since

the petitioner's contention that his daughter's earning is Rs.72 lakhs to Rs.80 lakhs is based merely on his daughter's photographs posted in instagram and her instagram history, the learned Judge has rightly disbelieved the same in the absence of any independent evidence to be brought on record, to show her earnings.

8. Considering the earnings of the petitioner-husband and his responsibility to maintain his daughter, who was found to be without any source of income and, particularly, when she is prosecuting her career at Pearl Academy, which warranted huge fees to be incurred, the modification application was considered by the learned Judge, in the wake of the paraphrased "subsequent developments", on which the modification is sought, and rejected the same.

I do not see any illegality or perversity, in the impugned order and upholding the same, the writ petition is rejected.

[SMT. BHARATI DANGRE, J.]