

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION NO. 1213 of 2022**

JAYANTIBHAI SHRAVANBHAI RAJPUT

Versus

MINOR NAYRA JAYANTIBHAI RAJPUT THROUGH MAULIKA W/O
JAYANTIBHAI RAJPUT

Appearance:

RAJPUROHIT R BHAWARLAL(9420) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2,3MR UTKARSH SHARMA, ADDITIONAL PUBLIC PROSECUTOR for
the Respondent(s) No. 4**CORAM: HONOURABLE MR. JUSTICE UMESH A. TRIVEDI****Date : 29/11/2022****ORAL ORDER**

[1.0] This Revision Application is filed by the petitioner – husband challenging the order passed by the learned Judge, Family Court No.3, Ahmedabad dated 14.06.2022 in Criminal Miscellaneous Application No.1232 of 2021 whereby interim maintenance of Rs.30,000/- in all to the wife and daughters per month came to be granted.

[2.0] Heard Mr. Rajpurohit Bhawarlal, learned advocate for the petitioner. According to his submission, wife is leading adulterous life, and therefore, she is not entitled for maintenance, and therefore, no order for interim maintenance could have been granted by the learned Judge. He has also attempted to produce income tax returns for the Assessment years 2020-21 and 2022-23 before this Court but he did not produce any material or document before the Family Court, and therefore, it cannot be considered in determining this

Revision Application. Based on those income tax returns, he submitted that the interim maintenance awarded to the wife and daughters are on higher side. However, from the impugned order, it is clear that despite the petitioner - husband has filed his written reply, he did not produce any document showing his earning, more particularly, with regard to his income. However, the respondent - wife produced several documents vide list Mark 19/1 to 19/91, which includes photographs of two luxury Cars, Fortuner as well as Maruti Breeza Vitara as also copy of registration certificate for both the high end cars. As such, as alleged by the respondent - wife, the petitioner - husband has to his credit several offences and he has also remained in Central Jail for some time. Not only that, he has 150 Rickshaws, which is given on rent and he is charging per day Rs.250/- to Rs.300/- per Rickshaw. He is also dealing in the business as broker in Motor Vehicles and obtains hefty brokerage. He is also doing the business of finance in the name of Umiya Automobiles and is also working in RTO as an agent and thereby also he earns. As such, the petitioner - husband is also having one bungalow, which costs approximately Rs.1 Crore and a flat at Naroda, which is costing Rs.40 to Rs.50 lakhs. He also owns a shop, which is approximately valued at Rs.3,50,00,000/-. In short, the petitioner - husband is having sufficient earnings and properties for which the petitioner - husband has not produced single documents except bare denial with regard to valuation of the immovable property referred to by him, if he has no such immovable property, he would have declared so on oath before the Court, which he failed to do. Not only that, when high end luxurious cars owned by him cannot be disputed,

prima facie valuation put forth by the wife, in absence of denial thereto without any material, on oath by the petitioner - husband can be taken as a base to determine interim maintenance.

[3.0] The income tax returns attempted to be produced by the petitioner - husband before this Court for the Assessment year 2021-22 and 2022-23 are subsequent to the filing of the application of maintenance, and therefore, it cannot be considered. Even if it is to be considered here, at this stage without production thereof before the trial Court, the interim maintenance cannot be determined based on such income tax return.

[4.0] The allegation against the respondent - wife that she leads adulterous life is required to be proved by leading cogent evidence before the Court and production of mere photographs, that too, before this Court will not suffice to assert that she leads adulterous life, and therefore, she is not entitled for maintenance. So far as interim maintenance is concerned, considering the earning of the petitioner - husband, as stated hereinabove at the rate of Rs.30,000/- in all per month, is much on a lower side and appears to be reasonable to be awarded at interim stage, and therefore, I see no reason to interfere with the order impugned and it is hereby rejected.

(UMESH A. TRIVEDI, J.)

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