

**Mohd. Ismail Vs. Badruddin and Another**

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**Court :** Mumbai Aurangabad

**Decided On :** Nov-20-2014

**Judge :** T.V. Nalawade

**Appeal No. :** Criminal Revision Application No. 203 of 2014

**Appellant :** Mohd. Ismail

**Respondent :** Badruddin and Another

**Judgement :**

1. This Revision is filed against the Judgment and Order dated 22nd August 2014, passed in E. No.262 of 2012 by the learned Judge, Family Court, Aurangabad, which was filed by the present Respondents under the provisions of Section 125 of the Code of Criminal Procedure, 1973. The Family Court has directed the present Petitioner to pay monthly maintenance of Rs.3,000/- to each of the Respondents, the parents of the present Petitioner, from the date of application i.e. 28th November, 2012.

2. Both the sides are heard.

3. Present Petitioner is the only son of the Respondents and it is their case that the Petitioner is engineer and he is taking contracts of construction. It is their case that since the year 2008 the son did not turn up to them and he did not make any provision for their maintenance. It is their case that they had given power of attorney to him to take care of the property but he misused that power of attorney

and grabbed their property. It is contended that they have no source of income and they are unable to maintain themselves. During the past, the father was working as Pesh Imam. It is contended that by working as contractor and by taking contracts of construction, the son is making income of Rs.75,000/- to Rs.1,00,000/- per month and he is in the position to give at-least Rs.10,000/- per month by way of maintenance to the parents.

4. Present Petitioner, son contested the matter by contending that right from childhood he supported his family by doing some work, as financial condition of the family was not that good. He has contended that he stayed at Bangalore and on his own he made some income and completed education. It is his contention that there was some dispute with regard to the property standing in the name of parents and he took the steps to resolve the dispute. It is his case that after resolving the dispute, he disposed of the property by using the power of attorney given to him, but he handed over entire consideration to the parents. It is his contention that he used to take care of his one sister also and there was no problem till the year 2010.

5. It is the case of the Petitioner, son that there was some dispute due to use of the house and so to harass him, such proceedings are filed by his parents. It is contended that his father is authorized Qazi and his monthly income is more than Rs.15,000/-. It is contended that father performs marriages and does Khula and makes income from such activities. The Petitioner has contended that he is jobless now and is facing financial crisis. It is contended that he hardly gets Rs.8,000/- to Rs.10,000/- per month and he has to maintain his own family from that income.

6. Before the Family Court, both the sides gave evidence. Some record was produced by the parents showing that they are required to spend on medicine and the record is produced to show the status of son which includes use of four wheeler by him.

7. It appears that some property dispute is going on between the present Petitioner and Respondents. In any case, it was necessary for the son to show that there is some source of income to the parents and he is not liable to pay anything for their maintenance. The mother has given evidence, which is to the

effect that in the past present Respondent No.1 was working as Qazi but at present he is not able to do anything. It is admitted that the property admeasuring 2 Hectare 55 R was developed and the plots were sold and most of the portion was sold to brother-in-law by the Petitioner. This land was then transferred in the name of wife of the Petitioner. These circumstances speak much about the approach of the Petitioner and it creates probability that he has grabbed the property. There is no record to show that consideration was given to the parents.

8. The contention of the Petitioner that the parents are acting at the instance of relatives and they want to harass him, cannot be accepted as it is his responsibility to maintain his parents. Admittedly the Petitioner is highly educated and before many years he got degree in Engineering, in Civil. It is also not disputed that he was taking contracts of construction. In view of these circumstances, it was necessary for him to produce some record to prove his income. There is record to show that Petitioner is using four wheeler.

9. The evidence given by the parties is sufficient to infer that parents have become old now and they are not able to maintain themselves. On the other hand, there is evidence that son was working as contractor, he is engineer and he has capacity to make sufficient income for the maintenance of his own family and for the maintenance of parents. Considering the status of the parties and the aforesaid circumstances, the Family Court has granted maintenance at the rate of Rs.3,000/- per month to each of the Respondents. This amount is not on higher side. This Court sees no reason to interfere in the order of the Family Court.

10. In the result, the Revision Application is dismissed.

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