

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.78 OF 2015

Shaikh Shahid Shaikh Razzak,
Age : 25 years, Occ. Labourer,
R/o Sajapur, Tq. & Dist. Aurangabad ..PETITIONER

VERSUS

Simran Begum Shaikh Shahid,
Age : 23 years, Occ. Service,
R/o C/o Zarina Begum Shaikh Mussa,
Near Sahara Wholesale Shop,
Abrar Colony, Aurangabad ..RESPONDENT

Mr M.D. Joshi, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 21st August, 2015

ORAL ORDER :

This revision is by the applicant-husband, questioning the legality and validity of the judgment and order dated 23rd January, 2015, passed by the Judge, Family Court, Aurangabad, in Petition No.E-184/2013, whereby the applicant herein has been ordered to pay maintenance of Rs.2,500/- to the respondent, from the date of the application, i.e. 20th August, 2013 and Rs.2,000/- towards expenses.

2. Mr Joshi, learned Counsel appearing on behalf of the applicant has disputed the quantum of maintenance awarded by the learned Judge of

the Family Court, as according to him, there was no opportunity to the applicant to lead evidence, so as to bring on record his monthly income. Mr Joshi then urged that in absence of evidence as regards monthly income of the applicant, the quantum of maintenance awarded by the learned Judge of the Family Court is exorbitant. He would urge that entitlement of maintenance is not in dispute, but what is disputed is the quantum.

3. In support of his contention as regards granting opportunity to lead evidence, Mr Joshi has relied upon the judgments of this Court, in the matter of **Chandrashekhar s/o Sukhdeorao Raut vs. Sau. Madhuri Chandrashekhar Raut**, reported in **2013 ALL MR (CRI) 2719** and **Shabuktabano Ayyaz Inamdar & anr. vs. State of Maharashtra & anr.**, reported in **2014 (3) Bom. C.R. (CRI) 122**.

4. With the assistance of the learned Counsel, I have perused the judgment impugned herein. It is required to be noted that in support of the claim for maintenance, the respondent-wife has examined herself and was also subjected to cross-examination on behalf of the applicant herein. The evidence of the respondent is at Exh.22, whereas the applicant herein, though was given an opportunity to lead evidence, has chosen not to lead evidence and restricted himself to the extent of cross-examining the respondent-wife.

5. Though the respondent-wife had alleged that the applicant herein is working as a supervisor and was getting salary of Rs.15,000/- per month from Aurangabad Bearings company, the learned Judge of Family Court has evaluated the quantum of the income of the applicant herein, independently. The Family Court considered the age of the applicant herein to be 27 years and then, having regard to per day earning of the applicant between Rs.250/- and Rs.300/-, has recorded a finding of his income to the extent of Rs.9,000/- per month and ordered payment of Rs.2,500/- per month, towards maintenance.

6. The finding of quantum of maintenance is based on satisfaction reached by the Family Court as regards the monthly income of the applicant herein, which in my opinion, is based on the evidence. In view thereof, in my opinion, no case for interference is made out.

7. So far as the case laws cited by Mr Joshi is concerned, in both the cases the evidence was not brought on record as regards income of the husband, so also the recording of satisfaction by the concerned Court as regards income of the husband, whereas it is noticed in the present case, that discarding the case of the respondent-wife, the Family Court has considered the income of the husband between Rs.250/- and Rs.300/- per day and has awarded maintenance of Rs.2,500/- per month. Thus, the

case laws cited on behalf of the applicant will hardly be of any assistance to the facts of the instant case.

8. In the light of above, the Revision Application fails and stands rejected with no order as to costs.

(N.W. SAMBRE, J.)

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