

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Revision Application No. 281 Of 2014.

SHAIKH AHMED SHAIKH RASUL.
VERSUS
THE STATE Of MAHARASHTRA AND ORS.

Appearance =>

Mr. Revannath Bhapkar, Advocate for the Applicant.

Mr. V.D. Godbharle, Addl.Public Prosecutor for the State of Maharashtra.

Mrs. V.S. Raut, Advocate for Respondent No.2.

CORAM : V.M. DESHPANDE, J.

DATE : 29th JANUARY, 2015.

P.C. :-

Heard Mr. Revannath Bhapkar, learned counsel for the Applicant. Challenge in the present Revision Application is to the order dated 31st August, 2013 passed by the learned Principal Judge, Family Court, Aurangabad in Petition – Criminal M.A.No.31/12, by which the learned court below was pleased to partly allowed the application filed on behalf of present Respondent No.2.

[2] I have heard the learned counsel for Respondent No.2 and Additional Public Prosecutor.

[3] There is no dispute that, application under Section 125 of the Code of Criminal Procedure was filed by the present Respondent No.2 before the court below and same was registered as Criminal M.A.

No.30/2008. Said application was contested by the present applicant and vide order dated 31st March 2008, said application was allowed.

[4] From the memorandum of the Revision Application, it does not reflect that, said order granting the maintenance allowance in favour of Respondent No.2 was challenged by the present Applicant nor the learned counsel for the Applicant could point out that, said order of granting maintenance allowance was ever questioned before the superior court.

[5] In the year 2012, present Respondent No.2 filed application under Section 127 of the Code of Criminal Procedure for enhancement of the maintenance allowance. She claimed that due to her age, she required medical assistance and, therefore, earlier maintenance allowance of Rs.550/- per month should be enhanced to Rs.5000/- per month.

[6] It is submitted by her that present Applicant is having irrigated land and he is engaged in the business of electric motor rewinding. It was pleaded by Respondent No.2 that from the agricultural field, present applicant is getting Rs. 5 Lakhs per annum and Rs.10,000/- per month from the electric motor rewinding work.

[7] Further it is pointed out that after willful neglect, the applicant married second time however, his second wife died, thereafter he married again and leading happy life with third wife however, he is not taking the care of Respondent No.2. Notice of the application under Section 127 of the Code of Criminal Procedure was issued and was duly served upon the present Applicant.

[8] In fact, the petitioner has also admitted in paragraph No.4 of present Criminal Revision Application itself that the notice issued by the

Family Court, Aurangabad in respect of the application under Section 127 of the Cri.P.C. was duly received by him. In spite of the service, present Applicant chose to remain absent before the Family Court and allowed to proceed the matter. Further even before this court, sufficient ground is not demonstrated or pointed out as to why the present Applicant was unable to appear before the Judge, Family Court. Only reason that is pointed out in the present Criminal Revision Application is “Personal difficulty”, which is vague. Since the Revision petitioner has failed to point out sufficient cause and reason for not appearing in the proceedings before court below, he cannot raise dispute that the order is passed behind his back.

[9] The learned Judge, Family Court after considering the pleadings and taking over all survey of the present situation, such as rising prices etc. partly allowed the application under Section 127 of the Cri.P.C. and granted maintenance allowance @ Rs.1500/- per month only.

[10] I have gone through the impugned judgment. It is to be noted that since the applicant himself remained absent in spite of the service from the Family Court and since no cogent reason are coming forward as to why he was unable to participate in the proceedings before the court and looking to the fact that the maintenance allowance is meager one i.e. only Rs.1500/- per month, no case is made out. Criminal Revision Application is dismissed.

(V.M. DESHPANDE, J.)