

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD

CRIMINAL REVISION APPLICATION NO. 236 OF 2001

- 1] Ravindra s/o Annasaheb Navgire,
aged 27 years, occ. Labour,
r/o Ram Nagar, CIDCO, N-2,
Aurangabad ...Applicant

VERSUS

- 1] Mandabai w/o Ravindra Navgire,
aged 22 years, occ. Household,
r/o Pundlik Nagar, Aurangabad
(Majid Galli, A'bad),
C/o Shamrao Bhikaji Jadhav,
2] Premkumar s/o Ravindra Navgire,
age 4 years, minor u/g of
Respondent no.1 above named,
3] Priya d/o Ravindra Navgire,
age 1½ years, minor u/g of
Respondent no.1 above named ...Respondents

.....
Shri R.N.Chavan, advocate h/f
Shri Vijay Sharma, advocate for applicant
Shri G.N.Chincholkar, advocate for respondents
.....

AND

CRIMINAL REVISION APPLICATION NO. 343 OF 2001

- 1] Mandabai w/o Ravindra Navgire,
aged 23 years, occ. Household,
r/o Pundlik Nagar, Majid Galli,
Aurangabad

C/o Shamrao Bhikaji Jadhav,
r/o as above,

2] Premkumar s/o Ravindra Navgire,
age 4 years, minor u/g of
Petitioner no.1 above named,

3] Priya d/o Ravindra Navgire,
age 5 years, minor u/g of
petitioner no.1 above named

...Applicants

VERSUS

1] The State of Maharashtra,

2] Ravindra s/o Annasaheb Navgire,
aged 28 years, occ. Service,
r/o Ram Nagar, CIDCO, N-2,
Aurangabad
(P.S.Mukundwadi, Aurangabad)

Respondents

Shri G.N.Chincholkar, advocate h/f
Smt. S.G.Chincholkar, advocate for the applicants
Shri R.N.Chavan, advocate h/f
Shri Vijay Sharma, advocate for respondent no.2

CORAM : V.M.DESHPANDE, J.

DATED : 5th January, 2015

ORAL JUDGMENT :-

1] These two Revisions can conveniently be disposed of by the common judgment, since both arise out of the common judgment, passed by the learned Principal Judge, Family Court, Aurangabad in Petition No. E-313 of 2000.

2] I have heard Shri R.N.Chavan, advocate holding for Shri Vijay Sharma, learned counsel for the applicant and Shri G.N.Chincholkar, learned counsel representing for the respondents in Criminal Revision Application No. 236 of 2001 and applicants in Criminal Revision Application No. 343 of 2001.

3] The parties hereinafter will be referred as per their original status.

4] Criminal Revision Application No. 236 of 2001 is filed by the husband; whereas Criminal Revision Application No. 343 of 2001 is filed by wife and minor children. The relations inter se between the parties in these two Revisions are not at all disputed. Applicant Ravindra in Criminal Revision Application No. 236 of 2001 is husband and father of applicants in Criminal Revision Application No. 343 of 2001.

5] The marriage between Ravindra and Mandabai was solemnized on 22.3.1996. From the wedlock the couple was blessed with two children who are also the applicants in Criminal Revision Application No. 343 of 2001.

6] It appears that, though for initial period the couple pulled well, however, for reasons best known to the couple,

there was a matrimonial discord. Initially, a petition bearing Petition No. A-66 of 2000 was filed by the husband against Mandabai under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. After filing of the said petition for restitution of conjugal rights, the wife along with her two children filed an application under Section 125 of the Criminal Procedure Code before the Family Court for grant of maintenance. The said proceedings were registered as Petition No. E-313 of 2000. Both the petitions were pending in the court of the Principal Judge, Family Court, Aurangabad. Though an attempt was made to reconcile in between the parties, however, it was failed.

7] By a common judgment, dated 23.6.2001, the learned Principal Judge, Family Court, Aurangabad dismissed the Petition A-66 of 2000 filed by the husband for restitution of conjugal rights, however, at the same time, he allowed the petition bearing No. E-313 of 2000 for maintenance partly. The learned Principal Judge, Family Court, Aurangabad granted maintenance at the rate of Rs.500/- per month in favour of the wife; whereas maintenance at the rate of Rs.300/- and Rs.200/- was given for son Premkumar and daughter Priya respectively.

8] It appears that the husband is satisfied about the verdict handed down to him by the Family Court in rejecting the

application under Section 9 of the Hindu Marriage Act. He only questioned the legality and correctness of the judgment and order passed by the court below in so far as grant of maintenance against his wife and children.

9] Though it was the claim of the wife that the husband is working in a Distillery and was earning Rs.7,000/- per month, conveniently the wife has not given any details either in the petition or in her evidence in respect of the name of the said Distillery. There is no positive evidence brought on record by the wife about the income to the extent of Rs.7,000/- as claimed in her petition. However, at the same time, the husband has admitted in his evidence that he is doing labor work, however, conveniently he has not given the details of his earnings. As a husband, he is under obligation to maintain his wife and two minor children. Since the husband has admitted that he is doing work, a note can be taken that he must be earning, and therefore, it was the duty of the husband to point out his exact income for determination of the quantum of the maintenance.

10] Perusal of the impugned judgment shows that the learned Family Court has considered the issue and reached to the conclusion that in the interest of justice the maintenance of Rs.500/-, Rs.300/- and Rs.200/- per month can be given to the wife, son and daughter, respectively. No exception can be

taken to such finding, since the said finding is based on the available material on record.

11] In that view of the matter, both the Revisions are dismissed. However, in the circumstances, there shall be no order as to costs. Rule discharged.

[V.M.DESHPANDE, J.]

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