

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

CRIMINAL REVISION APPLICATION NO. 141 OF 2002

Chandrakant Laxman Adhane,
age 27 years, occ. Labourer,
R/o Viramgaon, at present Khultabad]
Tq. Khultabad, Dist. Aurangabad ...Applicant

VERSUS

- 1] Kalinda w/o Chandrakant Adhane,
age 25 years, occ. Labourer,
r/o Pimpalkhuta
c/o Bhausahab Sravan Shelke,
Police Station Karmad,
Tq. And Dist. Aurangabad
- 2] The State of Maharashtra ...Respondents

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Shri Vivek Bhavthankar,, advocate for applicant
Shri V.P.Kadam, A.P.P. for respondent no.2
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CORAM : V.M.DESHPANDE, J.

DATED : 21st January, 2015

ORAL JUDGMENT : -

- 1] Rule. Rule is made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

2] Heard Vivek Bhavthankar, learned counsel for the applicant and Shri V.P.Kadam, learned Additional Public Prosecutor for respondent no.2/State. There is no appearance for wife Kalinda.

3] Two different petitions were filed before the learned Judge, Family Court, Aurangabad i.e. Petition No.E-265 of 2001, which was filed by the present applicant Chandrakant under Section 9 of the Hindu Marriage Act for restitution of conjugal rights; and Petition No. E-307 of 2001 was filed by wife Kalinda under Section 125 of the Code of Criminal Procedure for grant of maintenance.

4] Learned Judge of the Family Court decided both the matters simultaneously and by common judgment, dated 3.3.2001, the petition for restitution of conjugal rights was dismissed by the learned Judge, however, he partly allowed the petition No. E-307 of 2001 for maintenance filed by the wife and directed the maintenance @ Rs.1,000/- per month from the date of the petition.

5] Though the petition for restitution of conjugal rights was dismissed by the learned Judge, Family Court, the said judgment and decree is not challenged by the present applicant Chandrakant. What is challenged is grant of maintenance

granted in favour of the wife.

6] After hearing the learned counsel for the applicant/husband for considerable time, it is clear that the learned Judge, Family Court on available material has correctly reached to the conclusion that the applicant has failed to demonstrate that it is the wife who has parted his company without any reason. On the contrary, the learned court below recorded a finding that the husband was responsible for desertion of wife.

7] Further, it is clear that respondent/wife is unable to maintain herself and the applicant has neglected her and has not provided any maintenance.

8] The husband is under obligation to maintain his wife. In the present Revision, the applicant is unable to point out that the order passed by the learned Judge of the Family Court suffers from any irregularity or perversity. Before passing the order of maintenance, the learned trial court has considered every aspect, and after assessing the income of the present applicant has correctly reached to the conclusion. In that view of the matter, I find myself unable to agree with the statement of the learned counsel for the applicant that the order needs interference.

9] In the result, the present Revision Application is dismissed. Rule discharged.

[V.M.DESHPANDE, J.]

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