

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

Criminal Revision Application No. 339 of 2002

Sangita w/o. Indersing Charwande,
Age : 21 years,
Occupation : Household,
R/o. Kingaon, Taluka : Ambad,
District : Jalna.

.. Applicant.

versus

Indersing s/o. Kachru Charwande,
Age : 28 years,
Occupation : Agriculture,
R/o. Kingaon, Taluka : Ambad,
District : Jalna.

.. Respondent.

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Mr. S.Y. Mahajan, Advocate, for the applicant.

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CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 17TH MARCH 2015

PER COURT :

1. Heard Adv. Mr. S.Y. Mahajan appearing for the applicant.
2. The learned Counsel for the applicant has placed on record, the communication to the applicant, sent by him, soliciting instructions in respect of the present day situation and apprising her of the fact that the

Revision Application has been listed for final hearing. Adv. Mr. Mahajan submits that he has not received any instructions from the applicant. He further submits that he cannot proceed with the matter for want of instructions and inference could be drawn that the applicant does not wish to prosecute the Revision Application any further either for the reason that she has accepted the decree for restitution of conjugal rights or for the reason that she does not need maintenance.

3. It appears from the record, that by judgment and order dated 28-11-1996, the application filed by the present applicant under Section 125 of the Code of Criminal Procedure, 1973, was allowed by the Judicial Magistrate (F.C.), Ambad. The application filed by the present applicant was partly allowed. The non-applicant / respondent, who is not prosecuting the present application, was directed to pay separate maintenance at the rate of Rs. 225/- per month to the applicant from the date of application and amount of Rs. 200/- towards costs of the application. Being aggrieved by the said judgment and order, the respondent herein had filed Criminal Revision Petition No. 23/1997 before the Additional Sessions Judge, Jalna. The learned 3rd Additional Sessions Judge, Jalna, by order dated 3-9-2002, was pleased to allow the petition and the order passed by the Judicial Magistrate (F.C.), Ambad, dated 28-11-1996, was quashed and set aside.

4. The revisional court had rightly observed that the applicant had not given sufficient reasons for withdrawing herself from the company of her husband and, therefore, it was construed that she had willingly abandoned the company of her husband without there being any sufficient

reason. The learned revisional court had rightly considered that the applicant herein had deposed before the court, that she was willing to cohabit with her husband even after the last incident. The allegations levelled by the respondent were not substantiated nor specified. The respondent had substantiated his case by filing a petition seeking restitution of conjugal rights and, therefore, it could not be construed that the respondent herein had neglected or denied to maintain the present applicant. In view of this, the petition filed by the respondent was allowed. The learned 3rd Additional Sessions Judge, Jalna, has recorded just reasons for allowing the petition. The judgment delivered by the Additional Sessions Judge, Jalna, does not call for any interference.

5. Hence, the Revision Application is devoid of any merits and the same stands dismissed. Rule is discharged.

(SMT. SADHANA S. JADHAV)
JUDGE

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