

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

**CRIMINAL REVISION APPLICATION NO. 25 OF 2003**

Vilas Mohan Patil

Age : 46 Yrs., Occ. Service,

R/o : Pachora, Tq. Pachora,

Dist. : Jalgaon.

**.... PETITIONER/**

**[ORIGINAL NON APPLICANT]**

**V E R S U S**

Dhankorbai Vilas Patil

Age : 43 Yrs., Occ. Labour,

R/o : Kurhe (Khurd),

Tq. Amalner, Dist. : Jalgaon.

**.... RESPONDENT/**

**[ORIGINAL APPLICANT]**

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Mr. R.M.Deshmukh, Advocate for Applicant.

Mr. T.S.Lodhe h/f Mr.V.T.Choudhari,

Advocate for the Respondent.

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**CORAM : V.M.DESHPANDE, J.**

**DATE OF JUDGMENT : 16<sup>th</sup> FEBRUARY, 2015**

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**ORAL JUDGMENT :**

1. Heard Mr. R.M.Deshmukh, the learned counsel for the applicant and Mr. T.S.Lodhe holding for Mr. V.T.Choudhari, the learned counsel for the respondent.

2. The challenge to the present Revision Application is the Judgment and Order dated 19/11/2002 passed by the learned Additional Sessions Judge, Amalner in Criminal Revision Application No. 17/2002, whereby the learned revisional Court allowed the Revision filed on behalf of the respondent/wife and directed the present applicant/husband to pay an amount of ₹ 500/- [Rupees Five Hundred only] per month from the date of filing of the maintenance application.

3. The wife filed application for maintenance in the Court of the learned Judicial Magistrate First Class, Amalner on 23/08/1989. Her application was found favour by the learned Magistrate and maintenance to the tune of ₹ 500/- per month was granted from the date of the application. The said order was questioned by filing Revision by the husband bearing No. 127/1991. The revisional Court allowed the Revision filed on behalf of the applicant/husband and the

order of maintenance was set aside. Being dis-satisfied, the wife preferred Criminal Revision No. 104/1992 before this Court on 06/11/2000. This Court set aside the order passed by the learned Additional Sessions Judge, Amalner and confirmed the order passed by the learned Magistrate.

4. In between this, petition for divorce was filed on behalf of the husband on the ground of desertion before the matrimonial Court by filing H.M.P. No. 393/1991. The said H.M.P. was decreed vide order dated 25/06/1993. The Appeal was carried by the wife before the appellate Court. However, the appellate Court on 26/04/2000 found it to be merit-less and it was dismissed. Against that, no Second appeal was filed.

5. After the confirmation of the decree of divorce, the husband filed proceedings u/s 127 (2) of the Code of Criminal Procedure for cancellation of maintenance. The said proceedings was contested by the wife. The learned Magistrate decided the said proceedings bearing Criminal Misc. Application No. 79/2001 and passed order on 19/11/2001. The operative portion of the said order reads as

under :

*“ The non applicant wife will have to be held entitle from the date of divorce i.e. from 25/06/1993 onwards for maintenance, but it is a question of separate legal battle and proof. The non applicant wife is not entitle for maintenance for any period prior to passing of the decree of divorce in H.M.P. No. 393/91 dated 25/06/1993.*

*With this finding, this application is disposed off ”.*

6. This order was carried by the wife in the Revision. The learned revisional Court has rightly observed that the husband did not raise any dispute in respect of the maintenance allowance prior to the date of decree of divorce. Further, the wife was entitled to claim maintenance from the date of the application itself. In that view of the matter, the learned revisional Court has rightly allowed the Revision and directed that the husband shall pay maintenance @ ₹ 500/- per month to the wife from the date of filing of the maintenance application and the amount already paid shall be deducted.

7. The reasoning given by the learned revisional Court is in conformity with the settled principle of law. No perversity is crept in the order passed by the learned revisional Court.

8. In that view of the matter, the present Criminal Revision Application is dismissed.

**[V.M.DESHPANDE, J.]**

KNP/Cr. Revn. Apln. 25.2003 - [J]