

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

CRIMINAL REVISION APPLICATION NO. 247 OF 2014

Chandrabhaga @ Ratnamala w/o Vaijinat
Bhondwe, Age: 40 years, Occ: Household,
R/o. Taroda, Tq. & Dist. Parbhani.

...Applicant

versus

1. Vaijinath s/o Kondiram Bhondwe,
Age: 43 years, Occ: Labour,
R/o. Dudhangaon, Tq. Jintur,
Dist. Parbhani.

2. The State of Maharashtra.

...Respondents

WITH

CRIMINAL WRIT PETITION NO. 1480 OF 2014

Vaijinath s/o Kondiram Bhondwe,
Age: 42 years, Occ: Labour,
R/o. Dudhangaon, Tq. Jintur,
Dist. Parbhani.

...Petitioner

versus

Sau. Chandrabhaga @ Ratnamala w/o Vaijinath
Bhondawe, Age: 39 years, Occ: Service,
R/o. C/o. Shri Dattatraya Shrawan Ingale,
At Post Taroda, Tq. & Dist. Parbhani.

...Respondent

.....

Mr. S.K. Chavan, Advocate for applicant in revision and
for respondent in the writ petition

Mr. M.M. Bhokariker, Advocate for respondent No.1 in revision
and for petitioner in writ petition

Mrs. M.A. Deshpande, A.P.P. for respondent/State

....

CORAM : N.W. SAMBRE, J.

DATE : 7th SEPTEMBER, 2015

ORAL ORDER :

In view of bar under Section 397 of the Code of Criminal Procedure, revision is not tenable. Mr. Bhokarika, learned Counsel for respondent No.1 in revision, as such, has rightly raised objection to that effect.

2. In view thereof, Mr. Chavan, learned Counsel for the applicant seeks liberty to amend the proceedings. Leave to amend. Appropriate amendment be carried out forthwith. Criminal Revision Application is treated as Criminal Writ Petition.

3. It is claim of the applicant that learned Judicial Magistrate, First Class, Parbhani, while deciding the interim maintenance, has enhanced the maintenance by Rs. 1800/- per month from Rs. 700/- per month, as respondent-husband was holding substantial land and also was doing labour work.

4. The Revisional Court has reduced the said enhancement to Rs. 300/- per month and as such, held that the applicant is entitled for maintenance of Rs.1000/- per month. The order of maintenance, in the light of back ground that the applicant is getting honorarium amount of Rs. 2500/- per month as Anganwadi Madatnis.

5. Mr. Chavan, learned Counsel for the applicant would urge that the amount of Rs.2500/- per month in the form of honorarium plus Rs. 1000/- per month towards maintenance is not sufficient to meet daily needs in view of existing price index. He would further urge that the respondent-husband is drawing around Rs.9000/- per month, even if his income as labour at Rs.300/- per day is taken into account, according to him, the entitlement of maintenance as ordered by learned J.M.F.C, i.e. Rs. 2500/- per month.

6. Mr. Bhokariker, learned Counsel for the respondent-husband, while opposing the above referred submissions of Mr. Chavan, learned Counsel for the applicant, has invited my attention to filing of Criminal Writ Petition No. 1480 of 2011 wherein the order of learned Sessions Court is questioned thereby maintenance was enhanced by Rs.300/- per month. According to him, in view of scarcity in Marathwada region, the condition of agriculturists is well known and as such, the enhancement of maintenance of Rs.300/- per month is not proper. He would urge that the order of awarding Rs.700/- per month, which was passed earlier needs to be restored, as such, sought dismissal of the application by wife and submits that the writ petition be allowed.

7. Upon considering the rival submissions, it is noted that the wife-respondent in writ petition is drawing honorarium Rs.2500/- per month and awarded maintenance of Rs.1000/- per month, she will get Rs.3500/- per moth.

8. The fact about holding of land by the husband which stood in the name of his father is not in dispute. In view thereof, it will be appropriate to consider monthly income of husband at Rs.7000/- per month.

9. In view of above, it will be appropriate, in my opinion to enhance the maintenance awarded by learned Additional Sessions Judge, Parbhani in Criminal Revision Application No. 64 of 2012 by Rs.800/- per month i.e. total entitlement of wife will be of Rs.1500/- per month. The said enhancement is granted from the date of application for enhancement. This enhancement be given effect from 01/01/2014.

10. In view of above, Criminal Writ Petition preferred by the wife stands allowed.

11. As a consequences of above observations, the writ petition preferred by the husband is dismissed.

[N.W. SAMBRE, J.]