

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 377 OF 2014

Smt. Jaya Nandkumar Dhere	..	Applicant
VS.		
Nandkumar A. Dhere & Anr.	..	Respondents

Mr. Rahul Kadam for Applicant.
Mr. M. S. Gandhare for Respondent No. 1.

CORAM : M. S. SONAK, J.
DATE: 18 DECEMBER 2015

P.C. :-

1] The challenge in this revision is to the order dated 18 August 2014, by which the Family Court has declined to grant the applicant enhancement in the amount of maintenance.

2] Mr. Kadam, the learned counsel for the applicant submits that the maintenance amount of Rs.1,200/- per month was fixed in the year 2005. Taking into consideration the increase in cost of living as also, the proportionate increase in the earnings of the respondent, the applicant was justified in the year 2012 to seek enhancement of maintenance. The denial of the same was entirely unjustified and therefore, the impugned order warrants interference.

3] On the other hand, Mr. Gandhare, the learned counsel for the

respondent - husband submits that the respondent has since retired and gets pension of only Rs.12,730/- per month. Further, the respondent is required to maintain his wife and two children. The son is studying in the Engineering Course and the daughter is doing the M.Sc. course and the respondent is required to bear their expenses. In contrast, he submits that the applicant is carrying on business of sale of chicken and earns about Rs.30,000/- per month.

4] Having heard the learned counsel for the parties, although, it is true that considerable time has elapsed since the award of maintenance at the rate of Rs.1,200/- per month and further though no evidence as such has been produced with regard to the applicant undertaking the business of sale of chicken, in the facts and circumstances of this case there is no reason to interfere with the impugned order. There cannot be any serious dispute that the respondent has since retired and is presently drawing pension. Therefore, although considerable time has elapsed since award of maintenance to the applicant at the rate of Rs.1,200/- per month, there is corresponding variation in the earning capacity of the respondent as well. That apart, the respondent resides with his second wife and his two children, who are undertaking the Engineering and M.Sc. course. It is not unreasonable to presume that the respondent is required to expend amounts for their children.

The applicant resides with her son, who is, a software engineer reputed to be earning around Rs.50,000/-. If all these aspects are considered, then it cannot be said that there is any unreasonableness in the impugned order.

5] This criminal revision application is therefore dismissed.
There shall be no order as to costs.

(M. S. SONAK, J.)

Chandka