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

CRIMINAL REVISION APPLICATION NO. 24 OF 2015

Pandit s/o Manikrao Shete,
Age: 30 years, Occu: Agril./Student,
R/o. Loha, Tq. Loha, Dist. Nanded

..APPLICANT

VERSUS

1. Jayashree w/o Panditrao Shete,
Age: 26 years, Occu: Household
2. Mrudula d/o Panditrao Shete,
Age: 2 years, Occu: Nil,
U/g. Real mother i.e. respondent No. 1
Both R/o Asarjan, Nanded,
Tq. & Dist. Nanded

..RESPONDENTS

**WITH
CRIMINAL REVISION APPLICATION NO. 89 OF 2015**

Pandit s/o Manikrao Shete,
Age: 31 years, Occu: Agri.,
R/o. old Loha, Tq. Loha,
Dist. Nanded

..APPLICANT

VERSUS

Jaishree w/o Panditrao Shete,
Age: 27 years, Occu: Private Job,
R/o Aasarjan,
Tq. & Dist. Nanded

..RESPONDENT

Mr K. T. Shirurkar, Advocate holding for Mr S. R. Kolhare, Advocate for applicant;
Mr A. I. Deshmukh, Advocate holding for Mr B. G. Deshmukh, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 25th April, 2016

ORAL ORDER :

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Heard learned Counsel for the parties.

2. Both these revisions are initiated by the husband, who was a party to Misc. Criminal Application No.322 of 2012 before 7th Judicial Magistrate First Class, Nanded under section 12 of the Prevention of Women from Protection of Domestic Violence Act, 2005 (for short "D.V. Act").

3. The parties claim that their marriage was solemnized on 6th June, 2010 and in view of certain internal un-called relationship, the married life has not materialized, which prompted the respondent – wife to initiate the proceedings claiming maintenance and certain prohibitory orders. The learned Magistrate on 8th April, 2013, passed an order of prohibition against the petitioner and directed to pay maintenance of Rs.2,500/- and Rs.2,000/- per month, respectively to the wife and child from the date of the application and compensation of Rs.50,000/-.

4. The aforesaid order was subject-matter of challenge before the learned Sessions Judge, Nanded in OMCA No.18 of 2014. The said application came to be dismissed by an order dated 26th March, 2015, passed by learned Sessions Judge, Nanded. As such, Criminal Revision No.89 of 2015.

5. The wife preferred an application under section 125 of the Code of Criminal Procedure, seeking maintenance for herself and daughter, which came to be allowed by an order dated 18th November, 2014, directing the petitioner to pay maintenance of Rs.7,000/- and Rs.3,000/- respectively, to

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the wife and daughter from the date of the petition, i.e. from 1st April, 2014, which is questioned in Criminal Revision No.24 of 2015.

6. From the record of the present case, it appears that the petitioner is trying to prolong the matter and has repeatedly changed his lawyers and is passing the buck to the lawyers who represented him. One more aspect of which this Court must take note of is, the petitioner has not filed any reply to the proceedings initiated before the Family Court.

7. In the above background, learned Counsel appearing on behalf of the petitioner would urge that both the orders, i.e. one passed under section 125 of the Code of Criminal Procedure directing payment of maintenance and the other under the D.V. Act, which also directs payment of maintenance, are cumbersome and are creating much more liability on the present petitioner. He would then submit that the order of the Family Court needs to be set aside as no opportunity was given to him to file say and the order be treated as without giving a fair opportunity of hearing to the petitioner.

8. The aforesaid claim is opposed by the learned Counsel appearing on behalf of the respondents, stating that the petitioner has changed lawyers more than ten times in the proceedings. He submits that even in the present proceedings the petitioner has changed lawyers three times. My attention is invited to the order passed by this Court, wherein interim relief was granted in favour of the petitioner, subject to depositing certain

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maintenance amount, however, but for Rs.10,000/-, no maintenance is paid to the respondents - wife and daughter.

9. With the above observations, I proceed to decide the matter on merits.

10. The fact remains that so as to establish the income of the petitioner, two issues are relied upon by both the courts below, i.e. Family Court and the learned Magistrate, i.e. service of the present petitioner with Bafna Motors and he being owner of the land, which is around 1 Hectare and odd, which gives substantial income to him.

11. To counter the same, nothing is placed on record by the petitioner, so as to infer that his income as has been arrived at by the Courts below, i.e. Magistrate, Sessions Judge and Family Court under the D.V. Act was incorrect. The contention of the petitioner that fair opportunity was not given to him is also required to be rejected as the petitioner himself had chosen not to file reply and his conduct to change lawyers time and again depicts that he intends to protract the proceedings and does not want to co-operate the Court below in expeditious disposal thereof. Further, approach of the petitioner is also required to be taken note of as regards non payment of maintenance till date by not honouring the order to its entirety.

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12. However, the only aspect which in my opinion is required to be considered is that the Principal Judge Family Court while dealing with the claim under section 125 of the Code of Criminal Procedure has awarded maintenance of Rs.7,000 + Rs.3,000 = Rs.10,000/-, whereas the learned Magistrate has awarded maintenance of Rs.2,500 + Rs.2,000/- = Rs.4,500/- to the wife and daughter. As such, total maintenance which the respondents – daughter and wife will be getting is around Rs.14,500/-. In my opinion, it will be appropriate to reduce the amount of Rs.7,000/- granted to respondent no.1 towards maintenance to Rs.5,000/- by the Principal Judge, Family Court.

Rest of the orders passed by both the Courts below are kept intact.

Criminal Revisions stand disposed of with the above observations.

(N.W. SAMBRE, J.)

amj