

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

**CRIMINAL REVISION APPLICATION NO. 156 OF 2013**

Sk. Aziz s/o. Sk. Shamim .. Applicant

Versus

Shahanaj Begam w/o. Sk. Aziz & Anr. .. Respondents

Ms. Rizwana T. Ansari, Advocate for the applicant.

Mr. Sk. A.T. Patel, Advocate for respondent Nos. 1 & 2.

**CORAM : Z.A. HAQ, J.**

**DATED : 25.11.2016**

**P.C. :-**

. Heard Ms. Rizwana T. Ansari, Advocate for the applicant and Mr. Sk. A.T. Patel, Advocate for non-applicant Nos. 1 & 2.

02. The applicant has challenged the order passed by the Family Court directing the applicant to pay Rs.1500/- per month to non-applicant No.1 (wife of the applicant) and Rs.750/- per month to non-applicant No.2 (minor daughter of the applicant) towards maintenance from 23.02.2010 i.e. the date of filing of the petition before the Family Court. The learned Advocate for the applicant has submitted that non-applicant No.1 - wife is residing separately of her own volition and efforts by the applicant to resume cohabitation have failed and

therefore in the circumstances non-applicant No.1 is not entitled to claim maintenance from the applicant. The learned Advocate has referred to compromise which was arrived at in petition No.A-227 of 2009, which was filed by the applicant claiming decree for restitution of conjugal rights and has submitted that the applicant has taken a separate room on rent as per the desire of non-applicant No.1, but still she is not willing to reside with the applicant and resume marital life. The provisions of section 124(4) of the Code of Criminal Procedure are relied upon and it is argued that the learned Judge of the Family Court has failed to consider that non-applicant No.1 is not entitled to claim maintenance from the applicant.

03. The applicant had filed petition No. A-227 of 2009 praying for decree for restitution of conjugal rights in which compromise was effected between the applicant and non-applicant No.1 on 14.11.2009. The applicant had filed another petition i.e. Petition No. A-16 of 2011 praying for decree for restitution of conjugal rights, which came to be allowed by the Family Court by judgment dated 14.06.2012. The learned Advocate for the applicant has referred to the findings recorded by the Family Court that the non-applicant No.1 has left the matrimonial house without any lawful cause and relying on

the provisions of Section 125 (4) of the Code of Criminal Procedure, it is argued that non-applicant No.1 is not entitled to claim maintenance from the applicant. Though the applicant heavily relied on the outcome of the two petitions filed by him, the applicant has not been able to establish that he has made efforts to enforce/ execute the order passed in the petition filed by him. In the judgment passed in Petition No. A-16 of 2011, it has come on record that the applicant performed second marriage with Fatema Parvin and has a daughter from the second wife.

04. The learned Judge of the Family Court considered the outcome of the petitions filed by the applicant and has consciously directed the applicant to pay Rs.1500/- per month to non-applicant No.1 towards maintenance till the applicant and non-applicant No.1 resume cohabitation.

05. Considering the facts of the case, in my view, the impugned judgment does not require any interference. The Criminal Revision Application is dismissed. In the circumstances, the parties to bear their own costs.

**[Z.A. HAQ, J.]**