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

CRIMINAL REVISION APPLICATION NO.79 OF 2004

Dagdu Ramchandra Khotkar,
Age: 40 years, Occ: Service,
R/o. Bharatnagar, Garkheda Parisar,
Aurangabad ..APPLICANT

VERSUS

Nirmala w/o Dagdu Khotkar,
Age: 25 years, Occ: Household,
R/o. C/o Tukaram Rajaram Jogdand,
Takshasheelanagar, Near Shradha
Gas Agency, Aurangabad ..RESPONDENT

Mr A. D. Kasliwal, Advocate for applicant

CORAM : N.W. SAMBRE, J.

DATE : 25th August, 2016

ORAL JUDGMENT :

Learned Principal Judge, Family Court,
Aurangabad, by an order dated 2nd December, 2003,
ordered maintenance of Rs. 300/- per month to the
respondent-wife, which is questioned in the present
revision by the applicant-husband.

2. The marriage between the parties came to

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have been solemnized on 30th June, 2002.

3. Mr. Kasliwal, learned Counsel for the applicant, by inviting attention of this Court to the testimony of PW-5 Deelip Tanhaji Salve, would urge that respondent is not entitled for the maintenance, as her earlier marriage was subsisting and according to him, in view of explanation to section 125 of the Code, there is embargo on the right of the respondent to claim maintenance.

4. If the testimony of the said witness is perused, in my opinion, the marriage of the respondent with Deelip Salve cannot be accepted as true just because he had entered in to witness box and produced marriage card. There is no material on record, such as registration of marriage or has not placed on record the photographs of marriage with said Deelip Salve and as such, the Court below, in my opinion, has rightly disbelieved his testimony.

5. Apart from above, the fact remains that

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the applicant is paying maintenance since 2003, as the said order was not stayed by this Court. After lapse of 13 years, in my opinion, there is hardly any material for interfering with the impugned order, particularly looking to the quantum of maintenance. As such, criminal revision application fails and stands dismissed. Rule stands discharged.

(N.W. SAMBRE, J.)

Tupe