

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.423 OF 2004

Shaikh Rauf S/o Shaikh Kadar
VERSUS

PETITIONER

Shahinbegum w/o Shaikh Rauf

RESPONDENT

Mrs.A.N.Ansari, Advocate for the petitioner.
Mr.S.D.Hiwrekar, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 15/06/2016

ORAL JUDGMENT :

1. The petitioner is aggrieved by the judgment dated 05/07/2004 delivered by the learned Family Court, Aurangabad by which the petitioner has been directed to pay maintenance allowance @ Rs.400/- p.m. to the respondent.

2. This petition was Admitted by this Court and interim relief was refused.

3. The grievance of the petitioner is that the respondent did not desire to live with him and she left her marital home within one month from the date of the marriage which is 20/06/2003. The petitioner had sent one Rashidbhai to bring the respondent back to

the matrimonial home. She, however, declined. The petitioner, therefore, divorced the respondent and the Divorce Deed is placed on record.

4. The petitioner submits that though the learned Family Court has concluded that the respondent had not refused to live with him and that the petitioner neglected her, the said conclusion is unsustainable. It is, therefore, submitted that when the respondent could not establish that the petitioner illtreated her or drove her out of the marital home, an order of grant of maintenance allowance cannot be passed.

5. Learned Advocate for the respondent submits that the impugned order is assailed in the revisional jurisdiction of this Court. Findings on facts arrived at by the learned Family Court cannot be overturned in revisional jurisdiction unless the impugned judgment appears to be perverse and erroneous.

6. It is further submitted that the Trial Court has concluded on the basis of oral and documentary evidence that the petitioner had illtreated the respondent and cruelty was proved. There was no evidence to support the contention of the petitioner that he had

legally divorced the respondent. The petitioner had not made any effort to bring back the respondent to the marital home, in as much as, the petitioner did not initiate proceedings for restitution of conjugal rights, if at all he was willing and desirous of co-habiting. He, therefore, prays for the dismissal of this petition.

7. I have considered the submissions of the learned Advocates. An amount of Rs.400/- per month has been granted as maintenance allowance w.e.f. 29/12/2003. This Court refused interim relief to the petitioner while admitting the matter. The amount of maintenance is a paltry amount.

8. Upon going through the impugned judgment, I find that the Trial Court has considered the oral and documentary evidence. It has come to a conclusion that the divorce was not proved by the petitioner. It was also established that the respondent was illtreated. These findings on facts ought not to be interfered with unless it appears that the conclusions drawn by the Family Court are not based on the evidence recorded in the proceedings. The reasons that compelled the respondent to live away from the marital home had been proved before the Family Court. Merely because a second view is possible, findings on facts cannot be overturned.

9. In the light of the above, I do not find any merit in this petition.
Same is dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)