

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 17 OF 2016

Shri Yeshwant Chandram Solankar	... Applicant
V/s.	
Sou. Vaishali Yeshwant Solankar & Ors.	... Respondents

Mr. Sachinkumar P. Rajepandhare for the Applicant.
Mrs. P.P. Shinde, A.P.P. for the State.

**CORAM : M.S. SONAK, J.
DATE : 17 JUNE, 2016.**

PC. :

1 This matter was disposed of by an order dated 16.06.2016. However, the learned counsel for the applicant appeared, at the end of the Session and explained the circumstances in which, he could not present when the matter was disposed of.

2 Accordingly, today the matter was posted for verification. Further since the order made on 16.06.2016 had not been signed, the same is not signed and is deemed to be treated as recalled.

3 Mr. Rajepandhare, learned counsel for the applicant, submitted that the applicant is an agriculturist. Although the applicant is the owner of agricultural land admeasuring 1 hector 63 R, the same does not yield much agricultural produce. The applicant himself works as an agricultural labourer in agricultural properties belonging to other

persons. Besides, the learned counsel for the applicant submitted, that the applicant is required to take care of his aged parents and unmarried sister. In these circumstances, the learned counsel for the applicant has submitted that the award of maintenance of Rs.2,000/- per month to the applicant's wife and Rs.1,500/- each to the minor children, is excessive and requires interference.

4 Mr. Rajepandhare, learned counsel for the applicant also submitted that the arrears which the impugned order is directed to the applicant to clear, by now run up to Rs.1,50,000/- or thereabouts. Even considering the installment facility granted by the Family Court, the applicant will be required to pay an amount of Rs.7,500/- per month only towards arrears. The learned counsel for the applicant has submitted that this is too excessive considering the circumstances in which the applicant is placed.

5 The impugned order not only takes the cognizance of the circumstance that the applicant is the owner of agricultural land admeasuring 1 hector 63 R or thereabouts, but also takes judicial note of the drought situation presently prevalent in the State of Maharashtra. It is only after taking into consideration this aspect, the Family Court has chosen to award maintenance upon the conservative basis. Otherwise, considering the applicant's wife has no source of income, further she is required to take care of the two children aged by 5 and 3 years, the maintenance amount ought to have been greater. There is really nothing excessive about the award of maintenance, in the facts and circumstances of the present case.

6 Besides, if the impugned order is perused, it appears that the applicant made certain allegations against the wife, in regard the paternity of one of the minor children. The applicant has not been able to substantiate such allegation. In the impugned order, the learned Family Court has rightly made reference to the presumption contained in Section 112 of the Indian Evidence Act 1872.

7 There is no material on record to substantiate that the applicant's parents or his unmarried sister is almost entirely dependent upon the applicant. In any case, even after taking into consideration this circumstance, the maintenance awarded to the wife and the minor children is quite conservative. In fact, the respondents had prayed for maintenance of Rs.10,000/- per month and hardly 50% of the claim has been awarded to them. Accordingly, there is no jurisdictional error or perversity making of the impugned order.

8 The learned counsel for the applicant, based upon instructions from the applicant, has made statement that the applicant will deposit the amount of Rs.30,000/- towards arrears of maintenance before the Family Court within a period six weeks from today. The learned counsel for the applicant states that this is, in any case, a fit case to grant easy installments for clearance of the arrears.

9 In case, the applicant deposits the amount of Rs.30,000/- before the Family Court, Solapur, within a period of six weeks from today, towards part clearance of the arrears, the Family Court may permit the respondents to withdraw the same, unconditionally. Further, the

Family Court may then entertain applicant's application for grant of further installment facility. Such application may be decided after furnish of notice to the respondents. However, considering the circumstance that the applicant is required to pay the maintenance amount awarded regularly, as also pay further amounts towards arrears, the Family Court may consider grant of further installment facility to the applicant, only in so far as clearance of arrears are concerned. The Family Court may also put the applicant to some terms, particularly in the matter of withdrawal of such facility in case of any defaults. In case, the amount of Rs.30,000/- towards arrears is not deposited, within six weeks from today, then this direction for entertaining any further application for grant of installments will stand recalled.

10 Save and except the aforesaid liberty, this Revision Application is dismissed. There shall, however, be no order as to costs.

(M.S. SONAK, J.)