

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

WRIT PETITION NO. 3276 OF 2014

Gulab Piraso Nadaf

... Petitioner

vs.

Jannath Gulab Nadaf & anr.

... Respondents

Mr. Balwant Salunkhe i/by Vikas M. Mali, Advocate for the petitioner.

Mr. S. P. Rejepandhare i/by Ajay A. Joshi, Advocate for respondent no.1 and 2.

Coram : Smt. R. P. SondurBaldota, J.
Date : 10th August, 2016

P.C. :

1. This petition challenges the order dated 17th July, 2014 by which the District Court, Pandhapur allowed criminal revision application filed by the respondent wife and awarded maintenance of Rs.1,500/- per month to her. The petition is opposed by the respondent.

2. The respondents had on 1st October, 2008 filed an application under Section 125 Cr.P.C. for maintenance in the sum of Rs.1,500/- each. They alleged that on 10th April, 2005 the petitioner assaulted respondent no.1 and threw her out of the house along with respondent no.2, daughter. Thereafter respondent no.1 through her advocate's letter called upon the petitioner either to take her for cohabitation or pay

maintenance. The petitioner did not respond to the notice in any way. Thereafter respondents were constrained to file proceedings under Section 125 Cr.P.C. The trial Court after appreciation of the evidence awarded maintenance of Rs.1,500/- for the daughter by dismissing the application of respondent no.1 wife for maintenance for herself. The reason stated in the order is that it is difficult to say that the petitioner had thrown respondent no.1 out of the house on 10th April, 2005. It appears that on the very day a relative of respondent had died and in her cross-examination respondent no.1 admitted that she had gone to the residence of her relative along with her husband. On the basis of the answer in the cross-examination the trial Court held that there was no substance in the allegation that the petitioner had thrown the respondents out of the house on that day. The trial Court did not consider the contention of respondent no.1 that she had sent a notice through her advocate expressing her desire to cohabit with the petitioner and that the petitioner had not responded favourably to that notice. This fact is held sufficient by the District Court to hold that the petitioner is not willing to maintain respondent no.1. The District Court has correctly considered this aspect of the matter and allowed the revision application. I find no infirmity whatsoever in the impugned order. Hence, the petition is dismissed.

[Smt. R. P. SondurBaldota, J.]