

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

CRIMINAL REVISION APPLICATION NO.373 OF 2014

Sou. Manisha Milind Jadhav

..Applicant

Versus

Milind Ganpatrao Jadhav and another

..Respondents

Mr. Govind Solanke i/by Pratap Patil for the Applicant.

Mr. A. S. Patil for the Respondents.

CORAM : R. M. SAVANT, J.

DATE : 18th NOVEMBER, 2016

PC.

1 By the above Revision Application, the Applicant takes exception to the order dated 04.08.2014 passed by the Learned Judge of the Family Court, Kolhapur, by which order, the Petition filed by the Applicant being Petition No.E-79 of 2013 under Section 125 of the Criminal Procedure Code seeking maintenance from the Respondent came to be rejected. The Applicant and the Respondent were married on 17.02.2006. It seems that the Applicant left the matrimonial house on 12.09.2006 and went to reside with her parents. The instant application under Section 125 of the Criminal Procedure Code has been filed on 09.05.2013. The Applicant led evidence in support of her assertion that she has not been looked after and that she has been neglected by the Respondent. The Respondent husband led his own evidence to contend that he has never refused to co-habit with the Applicant, but it is the

Applicant who has left the matrimonial house on her own. The Trial Court on the basis of the material on record came to a conclusion that the Applicant failed to prove neglect and refusal on the part of the Respondent to maintain the Applicant. The Trial Court also did not accept the case of the Applicant that she was forced to move out of the matrimonial house by the parents of the Respondent. The Trial Court observed that there was no material on record placed by the Applicant to arrive at the said conclusion. The Trial Court in so far as the financial wherewithal of the father of the Applicant is concerned observed that the father of the Applicant has businesses in the name of Manisha Engineering Works, Popular Automobiles, Vaibhav Steel Works. The Trial Court referred to the admission of the Applicant that the financial condition of her father was sound. The Trial Court observed that as against this the Respondent had suffered a loss in the hotel business and had absconded for sometime. The Trial Court though took note of the fact that the Respondent was employed observed that the Respondent had also to take care of his parents and his unmarried sister out of the salary which he was earning. The Trial Court lastly observed that though it is the obligation of the Respondent to maintain the Applicant, in the facts and circumstances of the case, the Applicant was not entitled to the grant of any maintenance.

2 It seems that the Respondent had also filed a Marriage Petition being HMP No.22 of 2010 for divorce. In the said Marriage Petition, the Applicant had filed an application for interim maintenance, according to the Learned Counsel for the Respondent the said application was rejected and the Applicant had not carried the matter further. However the said fact is disputed by the Learned Counsel for the Applicant.

3 Be that as it may, having regard to the facts in the instant case, wherein the Applicant has moved out of the matrimonial house on 12.09.2006 and thereafter after a gap of about seven years has filed the instant application and also coupled with the fact that the Applicant has not been able to prove refusal and neglect on the part of the Respondent husband, the order passed by the Trial Court dismissing the Petition filed by the Applicant under Section 125 of the Criminal Procedure Code cannot be found fault with. No case for interference in the revisionary jurisdiction of this Court is therefore made out. The Revision Application is accordingly dismissed.

[R.M.SAVANT, J]