

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

CRIMINAL REVISION APPLICATION NO.219 OF 2004

Shaikh Bashir S/o Sk Karim
Age : 65 yrs, Occu : Nil,
R/o. Baijipura, Dist. Aurangabad

.. Applicant

VERSUS

1. Maulana Abdul Majid S/o Sk Bashir,
Age : 40 yrs, occu : Private Service,
R/o. Baijipura, Near Ganjeshahida
Masjid, Aurangabad
2. Abdul Rahim s/o Sk Bashir
Age : 35 yrs, Occu : Mason
R/o Baijipura, Near Gangeshida
Masjid, Aurangabad
3. Maulana Abdul Latif s/o Sk Bashir
Age : 30 yrs, Occu : Private Service
R/o. Baijipura near Ganjeshahida Masjid,
Baijipura, Near Ganjeshahida Masjid,
Aurangabad
4. The State of Maharashtra .. Respondents

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Advocate for Applicant : Shri .A.A. Khan (absent)
Advocate for Respondents No.1 to 3 : Shri S.V. Advant
APP for Respondent – State : Shri S.P. Tiwari

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CORAM : PR. BORA, J.

Dated: September 20, 2017

ORAL JUDGMENT :-

1. None has appeared for the applicant. The record shows

that, though the matter is pending for final disposal, the parties to the present proceeding are not attending the matter. Today, the learned Counsel for the respondents is present before the Court and has shown readiness to argue the matter. Since the applicant is not attending the present matter and his learned Counsel has also not turned up, I looked into the objections raised in the revision application and also perused the impugned judgment to find out whether there is any substance in the grounds of objections so raised in the revision application.

2. Perusal of the impugned judgment revealed that, the revision applicant had filed an application seeking maintenance from the respondents invoking the provisions under Section 125 of the Code of Criminal Procedure. It was the prayer of the applicant that, since he has become incapable of doing any job or work and since he does not have any source to maintain himself and further that, the respondents who are his major sons are having sufficient income, adequate maintenance be awarded to him from his major sons.

3. The application was resisted by the respondents on facts as well as on law. The learned Family Court after having assessed oral and documentary evidence brought before it, dismissed the

application filed by the applicant. Aggrieved by, the applicant has preferred the present revision application.

4. Perused the impugned Judgment. It is apparently revealed that, the Family Court has appropriately considered the contentions of the applicant and has turned down the said contentions by assigning reasons therefor. The learned Family Court has refused to grant any maintenance to the applicant observing that, the applicant has failed to prove the very basic facts that, he does not have any other source to maintain himself and further that, the respondents have sufficient means to pay the separate maintenance.

5. After having perused the impugned judgment, it does not appear to me that, the learned Family Court has committed any error in rejecting the application filed by the applicant. As has been observed by the learned Family Court, the applicant is at present also residing with his second wife and the children from the second wife. It is further observed that, though in the petition it was the contention of the applicant that, his children from second wife are minor, in the evidence before Court the applicant admitted that, his sons from the second wife are major and they all are residing jointly. It has also been observed by the learned Family Court that, from the

ancestral house the applicant had transferred five rooms in the name of his second wife. The learned Family Court has further observed that, there is further nothing brought on record to reach to the conclusion that, the children from his second wife are not maintaining him along with whom he is residing. The learned Family Court has also considered the evidence adduced by the respondents and has recorded a finding that the said respondents are not in position to pay separate maintenance to the applicant. In the revision application also, no such material is brought on record to take any contrary view taken by the learned Family Court.

6. After having considered the material on record, it does not appear to me that, any interference is warranted in the judgment and order impugned in the present revision application. Revision application being devoid of any substance deserves to be dismissed and is accordingly dismissed.

7. Rule discharged.

(PR. BORA, J)