

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

Criminal Revision Application No.259 of 2004

Dnyaneshwar s/o Laxman Gorade,
Ave 36 years,
Occupation : Agriculture,
R/o. Village Ganeshpur,
Taluka Kannad, Dist. Aurangabad. .. **Petitioner.**

Versus

Meerabai @ Chandrakalabai w/o
Dnyaneshwar Gorade,
Age 30 years, Occupation: Household,
R/o C/o Damodhar s/o Mukundrao Pawar,
Plot No.138, Behind Anupushpa Building,
Lakshmi Colony, Cantonment Area,
Aurangabad. .. **Respondent.**

Advocate for petitioner - absent.

Advocate for respondent - absent.

CORAM: T.V. NALAWADE, J.

DATE : 24 JANUARY 2017

ORAL JUDGMENT:

1) The revision petition is filed to challenge the judgment and order of Petition No. E-343/2003 which was pending before the Family Court Aurangabad. The Family Court has granted maintenance at the rate of Rs.600/- per month in favour of the respondent. This decision is

challenged by the husband. On the last date nobody turned up for the husband to prosecute the matter. For the other side also nobody has turned up. As the criminal revision cannot be dismissed in default this Court is deciding the matter on merits.

2) The marriage between the parties took place on 28-5-1993. It is the case of the wife that there was cohabitation for few years and after that by making demand of articles like television, motor cycle, illtreatment was given to her and she was driven out of the house by the husband. It is her case that she was driven out from matrimonial house 7 years prior to 2003. It is her case that she made attempts to return to the matrimonial house and even notices were sent to the husband to request him to take her back to the matrimonial house. It is her case that criminal case was filed against the husband for offence punishable under section 498-A of the Indian Penal Code but he did not show readiness to take her back to the matrimonial house. It is her case that even notice of divorce was published by the husband in news paper on 14-2-1997.

3) In the past the wife had filed proceeding for grant of maintenance in the year 1997 but at that time the husband agreed to compromise and to take her back to the matrimonial house. It is her case that due to this promise given by the husband, she did not prosecute the matter properly and the matter came to be dismissed.

4) It is the case of the wife that after dismissal of the previous matter filed for maintenance, the husband married second wife. One Vaishali is his second wife. According to her, this marriage took place on 26-1-2000. It is her case that after second marriage she tried to return to the matrimonial house but the husband refused to take her back in the matrimonial house.

5) It is the case of the wife that the husband has not made any provision for her maintenance and she is unable to maintain herself. The husband owns 20 acres of irrigated agricultural land and his annual income is around Rs. 4 lakh. She claimed maintenance at the rate of Rs.1500/- per month.

6) Notice of the proceeding was served on the husband but he did not appear in the matter and the proceeding was decided *ex parte*. Only the wife gave evidence. The Court considered the circumstance that in the past the contentions made by the wife were different and the circumstances have changed since rejection of the previous application. The Family Court has considered the record like 7/12 extract of agriculture land owned by the husband showing that he owns at least 4 to 5 acres of agriculture land. Land Survey No.194 was found to be irrigated. In view of these circumstances, in the year 2003 the Family Court granted maintenance at the rate of Rs.600/- per month. When the respondent, husband, remained absent, there are aforesaid circumstances, this Court holds that it is not possible to interfere in the decision given by the Family Court. The maintenance granted is on lower side. In the result, the criminal revision application is dismissed. Rule discharged.

Sd/-
(T.V. NALAWADE, J.)

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