

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

**CRIMINAL REVISION APPLICATION NO.231 OF 2014**

**Sou.Sanyogita Vijaysingh Katkar and anr. : Applicants.**  
**versus**  
**Vijaysingh Shankarrao Katkar & anr. : Respondents.**

**Mr. Bhushan Mandlik a/w Mr. S S Patwardhan for the Applicants.**  
**Mr. M V Rawool i/by Mr. Chetan G Patil for the Respondent No.1**

**CORAM : R. M. SAVANT, J.**  
**DATE : 20<sup>th</sup> February 2017**

**P.C.**

1           The above Criminal Revision Application takes exception to the order dated 11/04/2014 passed by the learned Judge, Family Court, Kolhapur by which order the Petition under Section 125 of the Criminal Procedure Code filed by the Applicants herein being Petition No.E-18 of 2013 came to be partly allowed to the extent that the maintenance sought by the Petitioner came to be rejected, however the maintenance for the son of Rs.3000/- came to be granted to the son.

2           The Petitioner No.1 and the Respondent No.1 were married on 23/05/1998. It seems that the Petitioner No.1 left the matrimonial house on 22/04/2010 and has been staying separately from the Respondent No.1 since then in her father's house. Out of the said wedlock the Petitioner No.1 and the Respondent No.1 have a son who was born on 29/04/1999. The Petitioners

filed the instant application being Petition No./E-18 of 2013 under Section 125 of the Cr.PC. The said application is founded on the fact that the Petitioner No.1 was ill-treated by the Respondent No.1 and his family members and that the ill-treatment was on account of the fact that the Petitioner No.1's father was not acceding to the request of dowry of Rs.50,000/- as demanded by the Respondent No.1 and his parents. In so far as the said case of the Petitioner No.1 is concerned, no evidence was adduced in support of the said case. It seems that the Respondent was suffering from mental depression on account of which he was under treatment and the Doctor under whose treatment the Respondent No.1 was has now certified him to be fit to work. It was the case of the Respondent No.1 that he was ready to look after and maintain the Petitioners. The Petitioner No.1 however on her own accord has left the matrimonial house. In so far as the evidence is concerned, except the evidence doctor, no other evidence was led by the parties.

3           The learned Judge of the Family Court on the basis of the said evidence came to a conclusion that it could not be said that the Respondent No.1 has neglected and failed to maintain the Petitioners. The learned Judge has also observed that the Petitioner No.1 is not in position to maintain herself and has declined to grant maintenance to the Petitioner No.1 on the ground that the sine-qua non for exercising the powers under Section 125 of the CrPC were absent in the present case inasmuch as the Petitioner No.1 has failed to

prove that the Respondent has failed and neglected to maintain her. In so far as allegation as regards demand for dowry is concerned, the learned Judge has observed that there is absolutely no material on record to substantiate the said case of the Petitioners. The learned Judge of the Family Court however held that it was the obligation of the Respondent No.1 to maintain their son and has accordingly granted Rs.3,000/- as maintenance to the son.

4           The learned counsel appearing on behalf of the Petitioner sought to draw this Court's attention to the affidavit of examination in chief filed on behalf of the Petitioner to contend that the case of negligence and ill-treatment by the Respondents was made out.

5           The learned Judge of the Family Court has in some detail referred to the conduct of the Petitioner in not reporting the alleged ill-treatment meted out to her at the hands of the Respondent either to her sister or to her maternal uncle who was staying close by. The learned Judge has observed that mere statement of the Petitioner in the absence of any corroboration could not have been accepted.

6           In my view, the impugned order passed by the learned Judge of the Family Court, Kolhapur rejecting the application for maintenance in so far as the Petitioner is concerned and allowing the same in so far as the son is

concerned, does not suffer from any error of jurisdiction or any other illegality or infirmity for this Court to interfere with in its revisionary jurisdiction. The above Revision Application is accordingly dismissed. It is expected that the Respondent would clear the arrears of maintenance in so far the son is concerned within four weeks from date.

**[R.M.SAVANT, J]**