

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.612/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Shyam Sundar Solankhi i/b. Pratap Patil for the applicant

Mr. K. U. Nikam for respondent No.1.

CORAM : K. K. TATED, J.

DATE : JULY 19, 2017

P.C.:

1. Heard. By this criminal Revision Application u/s.397 of the Cr.PC. read with section 401 of the Cr.PC. the applicant husband challenges the order dated 21.07.2015 passed by the learned Additional Sessions Judge, Islampur in criminal Revision Application No.23/2017 directing the applicant to pay Rs.700/- pm. to the respondent wife from the date of application i.e. 27.10.2010 towards her maintenance.

2. In the present proceedings, initially the respondent wife filed Misc. Criminal application No.287/2010 u/s.125 of the Cr.PC. for maintenance before the learned Magistrate, Islampur which was rejected by order dated 20.04.2014.

3. Being aggrieved by the said order, the respondent wife filed Revision Application u/s.397 of the Cr.P.C. wherein the Appellate Court directed the husband to pay Rs.700/- to the wife by way of maintenance. Hence the present criminal Revision Application.

4. The learned counsel for the applicant submits that the appellate court failed to appreciate that the respondent wife has failed to produce on record any documentary evidence to show that the marriage between the applicant and respondent. Therefore, there is no question of payment of any maintenance charges to the respondent. On this ground the learned counsel for the applicant submits that the impugned order dated 21.07.2015 is required to be set aside.

5. On the other hand the learned counsel for the respondent wife opposed the criminal Revision Application. He submits that the wife examined three witnesses, Pralhad Patil, Bharti Patil and Mahesh Shankar Patil at Exhibit- 15, 57 and 53 respectively. He submits that the applicant has not entered into witness box to prove his case. Therefore, the appellate court relying on the apex court judgment in the matter of Vidhyadhar Vs.

Mankikrao and Anr. AIR 1999 (SC) 1441 held that the respondent proved her case and directed the applicant to pay sum of Rs.700/- pm by way of maintenance charges. Therefore, there is no substance in the criminal Revision Application and same is liable to be dismissed with costs.

6. It is to be noted that, in the present proceedings the main contention raised by the applicant that there was no marriage between the applicant and respondent and hence, there is no question of paying any maintenance charges. It is to be noted that, the respondent wife entered into witness box, she has also examined three witnesses at Exhibit- 15, 57 and 53 to prove her case. Apart from that the applicant has failed to enter into witness box denying the marriage between the applicant and respondent.

7. Considering these facts and the amount awarded by the appellate court towards the maintenance i.e. Rs.700/- only, I do not find any reason to entertain the criminal Revision Application.

8. Hence, same stands rejected with costs of Rs.2500/-.

9. Cost to be paid to the respondent wife and/or to deposit in the trial court within four weeks from today.

JUDGE