

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****CRIMINAL REVISION NO.59/2014**

Poonamchand Digamber Patil ..vs.. Shilpa Poonamchand Patil and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S. G. Karmarkar, Advocate for applicant.

CORAM : V.M. DESHPANDE, J.

DATED : JUNE 7, 2017

By the present revision, the husband is challenging the order passed by the learned Family Court, Nagpur dated 03.01.2014 by which the learned Judge has allowed the petition E-38/2010 filed by the wife for grant of maintenance. By the said judgment, the Court below directed the revision applicant to pay maintenance at the rate of Rs.5,000/- per month to wife and Rs.3,000/- to the daughter.

In all three proceedings were filed. Petition A-59/2010 was filed for divorce by the husband. Petition A-628/2011 was filed by the wife for restitution of conjugal rights and petition E-38/2010 was filed by the wife and daughter for maintenance. These three proceedings were decided by a common judgment dated 03.01.2014. Petition A-59/2010 was dismissed by the Court below. The learned counsel for the applicant-husband submits that an appeal is already filed against the said dismissal. Petition A-628/2011 for restitution of conjugal rights is allowed by the Family Court and an appeal is also filed against the said decree.

Admittedly, the husband is serving as an Assistant Loco Pilot in Railway Department. The learned Judge of the

Family Court noticed that the husband is paying yearly premium of LIC to the tune of Rs.1,20,510/- and also repaying the house loan. According to the husband, he is getting salary of Rs.5,800/- after deduction.

The learned Judge has noticed that the gross salary of the husband is Rs.33,923/- as per salary slip for the months of January-February-2012 issued by the Railway Department. The learned Judge has also noticed and recorded a finding that the wife and daughter were neglected by the husband.

It is the contention of Mr. Karmarkar, that the wife is having Diploma in Pharmacy and she had given her license to one Navjeevan Pharmacy for running the pharmacy. The applicant has examined one Vikas Niswade, proprietor of the pharmacy. The learned Judge of the Family Court has considered the evidence of said Vikas Niswade to notice that he is paying only Rs.2,000/- per month to the wife. After perusing the impugned judgment, I am of the view that the court below has appreciated the pleadings and the evidence brought on record by both the parties. Once the matrimonial relations are established, it is the legal bounden duty of the husband to maintain his wife and daughter. They are also entitled to lead the life commensurate to the income of the husband.

In that view of the matter, I do not find any perversity in the impugned judgment granting maintenance at the rate of Rs.5,000/- and Rs.3,000/- per month to wife and daughter. The revision is therefore dismissed.

JUDGE

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