

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Revision [REVN] No.5 of 2017

(Sudhakar Rao Pundlik Rao Khandare vs. Sau. Sunita Sudhakar Rao Khandare)

with

Criminal Revision [REVN] No.190 of 2017

(Sunita Sudhakar Rao Khandare vs. Sudhakar Pundlik Rao Khandare)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

Shri P.A. Kadu, Advocate for the Applicant in Criminal Revision No.5/2017
and for Non-Applicant in Criminal Revision No.190/2017.
Shri P.R. Agrawal, Advocate for the Applicant in Criminal Revision
No.190/2017 and for Non-Applicant in Criminal Revision No.5/2017.

CORAM : S.B. SHUKRE, J.
DATE : 20th MARCH, 2018.

Rule. Rule made returnable forthwith. Heard finally by consent.

It is an objection of the husband/revision applicant that his wife has left his company without any rhyme or reason and now has been voluntarily residing separately from him and putting forward an excuse without there being any evidence to support it, that the husband is residing with another lady. This has been disagreed to the learned Counsel for the wife, who submits that filing of a divorce petition in the year 2014 itself is ground enough to hold that the husband has no intention to cohabit with the wife.

Although, there are some admissions given by the wife that her statement was recorded by police on 21st January, 2014 which indicated that at that time, the wife had stated to police that she left the husband's house voluntarily, one fact remains and it clearly goes against the case of the

husband. It is an admitted fact that the husband never initiated any proceedings for restitution of conjugal rights. On the contrary, the husband filed a divorce petition. These two facts together would show that even for the husband, there was love lost for his wife and the wife alone could not be blamed for living separately from the husband.

It is true that there is also no evidence to support the allegation that the husband was residing with another lady. But, as I said earlier, the *inter se* relations between the husband and wife were disturbed and this disturbance provided a reason to the wife to live separately, which was also not objected to by the husband as he did not initiate any proceeding for restitution of conjugal rights. Therefore, I am of the view that the learned Family Court Judge has rightly found that wife could not be blamed from living separately from the husband and this cannot be a ground for denial of maintenance to the wife.

As regards the quantum of maintenance, it is submitted by the learned Counsel for the husband/revision applicant that it is excessive and exorbitant, as, admittedly, the husband has to look after his old mother, who is not keeping well and there are too many deductions from his gross salary, because of which his net salary has been reduced to a paltry sum of about Rs.3,829/-. The learned Counsel for the husband also informs that the husband has retired, but on the other hand, the learned Counsel for the wife submits that the amount of maintenance granted by the Family Court is too less to enable the wife to survive the high cost of living of the present times and, therefore, it needs to be enhanced to Rs.10,000/- per month, as claimed by the wife in her application filed under Section 125 of Cr.P.C.

It is well settled law that only statutory deductions from the gross salary are required to be included while determining the quantum of maintenance. If these statutory deductions are considered, one would find that the gross salary of the applicant as per the salary certificate of the husband submitted by him would be not less than Rs.28,000/-. Then, it is also an admitted fact, as seen from the admissions given by the wife during the course of her cross-examination, that the mother of the husband is old and unwell. That means, the husband has an additional responsibility of his mother on his shoulders. In these circumstances, the quantum of monthly maintenance fixed by the Family Court at Rs.6,000/- per month cannot be seen to be either excessive or insufficient. Therefore, I see no reason to make any interference in the impugned orders on this count. The revision applications filed by the husband as well as the wife respectively deserve to be dismissed.

Hence, Criminal Revision No. 5/2017 and Criminal Revision No.190/2017 stand dismissed. Rule discharged.

JUDGE

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