

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

CRIMINAL REVISION APPLICATION NO.399 OF 2005

1. Uttam s/o. Bandu Jadhav,
Age-50, Occ-Business,
R/o-Mukundwadi, Ward no.13,
Lions Club Ho.So.
Aurangabad. **.. APPLICANT**

VERSUS

1. State of Maharashtra.
2. Latabai w/o. Uttam Jadhav,
Age-45 yrs., Occ-Business,
R/o. C/o. Murlidhar
Phakirchand Ahire,
Near Begumpura,
Near Samshan bhumi,
Veetbhatti, Aurangabad.
3. Miss Ranjana d/o. Uttamrao Jadhav,
Age-13 yrs. Occ-Student
under guardian of respondent no.2.
...RESPONDENTS

...

Mr.A.A.Jagatkar, Additional Public Prosecutor
for the respondent no.1 – State.

Mr.S.D.Ghayal, Advocate for respondent nos.2
and 3.

...

CORAM: V.M.DESHPANDE, J.

DATE : 16.04.2019

ORAL JUDGMENT:

1] None for the Revision Applicant. Shri S.D.Ghayal, learned counsel for the respondent nos.2 and 3 and Shri A.A.Jagatkar, learned Additional Public Prosecutor for the respondent-State.

2] By the present Revision Application, the applicant is challenging the judgment and order passed by the learned Principal Judge, Family Court, Aurangabad, dated 19.11.2005 in Petition No. E-194/2005. By the said judgment and order, the learned Judge of the Court below allowed the Application filed on behalf of respondent nos.2 and 3 for maintenance under Section 125 of the Code of Criminal Procedure. By the impugned judgment and order, the Court below directed the present revision applicant to pay maintenance of Rs.1,000/- per month to the respondent no.2

and Rs.600/- per month to the respondent no.3.

3] The record shows that this Revision Application was admitted on 21.02.2006 [Coram : P.B.Gaikwad, J.], however, interim relief was refused.

4] The prayer of the Revision Application shows that the applicant is not challenging the maintenance granted to the respondent no.3 - Ranjana. By the present Revision Application, the applicant is challenging the impugned judgment only to the extent of granting maintenance to the respondent no.2 - Latabai.

5] The respondent no.2 - Latabai and the respondent no.3 - Miss Ranjana filed an application under Section 125 of the Code of Criminal Procedure in the Family Court at Aurangabad. The said was registered as Petition No. E-194 of 2005. According to the

Application, the marriage between Latabai and the present applicant, namely, Uttam Bandu Jadhav was performed about 25 years ago of filing the application. From their wedlock, she delivered three children, namely, Anil, Sunil and Ranjana i.e. respondent no. 3. It is also stated that Anil and Sunil, after they become major, started residing separately. According to the application, for about 10 years she was treated nicely, however, subsequently she was ill-treated and assaulted, even the present applicant poured acid on her, resulting into registration of the crime for the offences punishable under Sections 498-A and 307 of the Indian Penal Code.

6] On being summoned, the present applicant filed his written statement in the maintenance proceedings. The sum and substance of his written statement is that his first marriage was performed with

Shashikala. During the subsistence of his marriage, he fell in love with Latabai i.e. respondent no.2 and Latabai started residing with him and Shashikala. He also admitted that Latabai delivered three children from his association with her. According to the written statement, she demanded lump-sum amount for her welfare and for her children and accordingly on 04.01.2000 he sold the plot and paid the amount to her. He, therefore, pleaded that the application be dismissed.

7] In order to substantiate their pleadings, the applicant – Uttam and respondent no.2 Latabai entered into witness box. After appreciation of the pleadings and the evidence, the Court below has passed the impugned judgment.

8] The applicant, Uttam, is not denying his association with respondent no.2 –

Latabai for a very long period. He is also not disputing paternity of three children, delivered by respondent no.2.

9] According to Latabai, her marriage was performed with the present applicant, Uttam, about 25 years ago. No doubt true, except her version about the said, there is no other evidence. However, we cannot forget the fact that a lady will not associate for 25 years with a man without there being any social sanction. Especially when the applicant, Uttam, is not denying that the respondent no.2 – Latabai used to reside with him. Therefore, merely because there is no formal proof of marriage between him and Latabai, her status as marital woman of Uttam, cannot be brushed-aside lightly.

10] It is the case of the applicant that prior to come in contact with Latabai, he was married with Shashikala. Therefore, it was

the obligation on the part of the present applicant, Uttam, to prove his first marriage with Shashikala. However, no steps were taken by him to prove that prior to he being come in contact with respondent no.2 Latabai, he performed marriage with Shashikala. It was also open for the present applicant to examine Shashikala as his witness, her evidence would have thrown light on the aspect as to whether she was married firstly with the applicant - Uttam. Since the applicant did not examine Shashikala, in my view, the Court below is required to draw adverse inference on the aspect that his marriage was performed with Shashikala firstly.

11] In so far as quantum is concerned, the Court below has supplemented good reason even otherwise grant of maintenance of Rs.1,000/- per month to the respondent no.2

and Rs.600/- per month to the respondent no.3, in my view, is not on excessive side.

12] After perusal of the pleadings, evidence and the impugned judgment, I am of the view that this is not a case wherein the judgment delivered by the learned Principal Judge of the Family Court should be upset. Consequently, the Revision Application is dismissed. No order as to costs. Rule is discharged.

[V.M.DESHPANDE]
JUDGE

DDC