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

CRIMINAL APPEAL NO.1419 OF 2018

Baban Tukaram Bagal

...Appellant

Versus

Sarika Baban Bagal and Anr.

...Respondents

Mr.B.A.Kulkarni, for the Appellant.

Mr.V.V.Gangurde, A.P.P. for the Respondent No.2– State.

CORAM : REVATI MOHITE DERE, J.

DATE : 28th MARCH, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this Appeal, the Appellant has impugned the order dated 15th October, 2018, passed by the learned Judge, Family Court No.4, Pune, below M.A.No.64 of 2017, on an application filed by the Appellant – husband, under Sections 340, 195 of Code of Criminal Procedure r/w Sections 191 and 192 of the Indian Penal Code.
3. Learned Counsel for the Appellant submits that the Respondent

– wife has suppressed in her application, that she was gainfully employed and instead has stated in the said application that she had no source of income. He submitted that since the Respondent – wife had withdrawn the Petition for Restitution of Conjugal Rights, there is no occasion for the Appellant - husband to show the falsity in the application.

4. Perused the papers. The Appellant was married to the Respondent – Wife on 2nd December, 2009. From the said marriage the couple has one issue. It appears that the Respondent – wife filed a petition in the Family Court seeking Restitution of Conjugal Rights. In the said Petition, the Respondent – wife had also filed an application seeking interim maintenance on 22nd April, 2015, wherein she has stated that she had no source of income. Accordingly, the Family Court directed the Appellant to pay Rs.10,000/- per month, towards maintenance, accepting that the Respondent – wife had no source of income. It appears that thereafter the Appellant - husband filed a Review Application stating that the Respondent – wife was gainfully employed and as such the records of Yashoda Shikshan Prasarak Mandal, be called for. According to the Appellant- husband, the Respondent – wife had suppressed the fact that she

was working and as such has committed fraud and forgery. It appears that the Family Court taking into consideration the fact that the Respondent – wife was working, reduced the maintenance from Rs.10,000/- per month to Rs.3,000/- per month.

5. It appears that the Respondent – wife contested the application filed by the Appellant – husband under Sections 340, 195 of Code of Criminal Procedure r/w Sections 191 and 192 of the Indian Penal Code, for initiating proceedings as against the Respondent – wife. It appears that in the said reply, the Respondent – wife had stated that when she filed the interim maintenance application, she was not gainfully employed and hence has stated that she was without any source of income.

6. It is not in dispute that the Respondent – wife had filed a Petition for Restitution of Conjugal Rights in the Family Court in 2014 ; that in the said Petition, the Respondent – wife had filed an interim application seeking maintenance ; that the Family Court granted interim maintenance of Rs.10,000/- per month to the Respondent – wife. It is not in dispute that at that time when the interim application was filed, the

Respondent – wife was indeed jobless and it appears that she had secured the job subsequently. It appears that the Respondent – wife was given a temporary job in Yashoda Shikshan Prasarak Mandal and as such was working with them from 1st June, 2015 to 26th October, 2016. It appears that the Yashoda Shikshan Prasarak Mandal was an non-aided School without any government grant. It is evident that the nature of job was not a permanent job. It appears that when the Appellant filed a Review Application pointing out the said fact i.e. employment of the Respondent – wife, the Family Court reduced the maintenance from Rs.10,000/- per month to Rs.3,000/- per month. It is a matter of record that subsequently the Respondent – wife withdrew the Petition filed by her seeking Restitution of Conjugal Rights.

7. There is no infirmity or perversity in the impugned order dated 15th October, 2018, passed by the learned Judge, Family Court No.4, Pune, below M.A.No.64 of 2017, dismissing the Appellant's Application seeking action as against the Respondent – wife under under Sections 340, 195 of Code of Criminal Procedure r/w Sections 191 and 192 of the Indian Penal Code.

8. The Appeal is accordingly dismissed.

REVATI MOHITE DERE, J.