

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

CRIMINAL REVISION APPLICATION (REVN) NO.101 OF 2013

(Jaiprakash s/o Bapurao Ogale Vs. Mrs. Pushpa w/o Jaiprakash Ogale)

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

Court's or Judge's orders.

Shri S.S. Paliwal, Advocate for Applicant.
Shri S.S. Alaspurkar, Advocate for Respondent.

CORAM: M.G. GIRATKAR, J.

DATE: 5th MARCH, 2019.

The present revision is against the judgment of Family Court in Petition No.E-214/2009 by which amount of maintenance granted to the respondent is enhanced to Rs.7000/- from Rs.2000/- Learned Counsel Shri Paliwal has submitted that the findings recorded by the Family Court are perverse therefore, liable to be quashed and set aside. The learned counsel has pointed out the findings and submitted that the Family Court observed that husband has produced one document to show that he has taken voluntary retirement from the service on 31.07.2011. Learned counsel has submitted that the Family Court not taken into account the retirement of applicant and wrongly passed the order.

Learned Counsel Shri Alaspurkar for the respondent has submitted that applicant is having house property etc. he is having hand some salary. There is change in the circumstances. The order passed by the Family Court

is perfectly legal and correct.

Section 127 of Cr.P.C. is incorporated with a view to alter, modify, cancel the order passed under section 125 of Cr.P.C. The intention is to take into the account the change in circumstance proved by the party.

Husband has not entered into witness box. Certified copy of his evidence is clearly show that he has admitted in his cross-examination that he is residing with Rekha Deshbratar without any divorce from his first wife. He is having flat at Pune. Rekha Deshbrater is a Doctor by profession and she is earning Rs.72,000/- to Rs.80,000/-. The applicant has produced one print out of Bharat Petroleum Corporation. It is for the applicant to prove before the Family Court about the decrease of monthly income. It is not the stage to take into account the document which is not certified by any authority. Observation of trial Court clearly show that there is change in the circumstance. Judicial notice of the fact can be taken by Court that the prices of essential commodities are heavily risen as compared to the year 2002. It is for the applicant/husband to move the Family Court for cancellation of order. At this stage, there is no evidence to show that he is getting less salary as compared to the year 2002. Hence, the learned Family Court has rightly taken into consideration the change in the circumstances necessity of the applicant. The husband has admitted that he is having four wheeler, flat etc. Looking to the status, earning, need etc. the amount of maintenance enhanced by the Family

Court is perfectly reasonable. There is no perversity or illegality in the impugned order.

Hence, revision is dismissed.

JUDGE

NSN