

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

WRIT PETITION NO.147 OF 2020

Shri. Pralhad Shyamrao Harne Petitioner

Vs.

Sou. Rekha Pralhad Harne & Anr. Respondents

Smt. Vandana G. Borhade for Petitioner
Mr. N.B. Patil, APP for State.

Coram : NITIN W. SAMBRE, J.

Date : 15th January, 2020

P.C.:

1. The Court of Judicial Magistrate, First Class, Vasai refused to grant maintenance, which order was reversed by the learned Additional Sessions Court, Vasai. The respondent-wife is awarded maintenance of Rs.17,000/- per month. As such, this petition.

2. Learned counsel for the Petitioner submits that the Petitioner is a disabled person, and his old aged father is dependent on him. According to him, it is difficult for him to survive in balance amount of Rs.33,000/-, if the amount of maintenance of Rs.17,000/- as

ordered is maintained. She would further urge that the Petitioner is ready and willing to maintain the respondent-wife. However, she her own has refused to stay with the petitioner.

3. Learned counsel for the Petitioner submits that the proceedings initiated under Section 9 of the Hindu Marriage Act for restitution of conjugal rights were dismissed in default as the Petitioner remained absent because of his ill-health. The application preferred for restoration of the said proceeding was also dismissed in default.

4. This Court is of the opinion that it shall be open for the Petitioner-husband to move for restoration of the said proceedings. Once the restitution proceedings are finally decided, it shall be always open for the Petitioner to move for the revocation/modification of the order of grant of maintenance.

5. The order of interim maintenance of Rs.17,000/- per month in favour of the respondent-wife is based on the testimony of the witness Jaymala Vishnu Parulekar, an employee of R.B.I., who has

proved that the Petitioner is receiving monthly income of Rs.50,000/- in the form of retirement benefits.

6. Considering the amount of retirement benefits, which the Petitioner-husband is drawing from the R.B.I. and also considering the fact that his old aged father is dependent on him, an award of interim maintenance to the respondent-wife appears to be just and proper. No interference is warranted.

7. Petition rejected.

8. Liberty to move for restoration of conjugal rights as observed hereinabove.

(NITIN W. SAMBRE, J.)