

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

Criminal Revision Application (REVN) No. 55 of 2020

Minaz Khan and Another Vs. Waqar Haneef Ansari

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

Court's or Judge's orders

Mr. A.J. Mirza, Advocate for the applicants.

CORAM : MANISH PITALE, J.

DATED : JANUARY 08, 2021

Heard learned counsel for the applicants.

2. By this application, the applicants have challenged order dated 16/09/2017, passed by the Family Court, whereby Petition filed on behalf of the applicants under Section 125 of the Criminal Procedure Code, 1973, was dismissed in default.

3. This Court condoned the delay and issued notice in the present Revision Application. The record shows that the sole respondent was duly served. There is no appearance on behalf of the sole respondent. It is stated in the Revision Application that the applicant No.1 was unable to attend the proceedings before the Family Court for the reason that her minor daughter was to be taken care of and that there was

communication gap between the applicant No.1 and her counsel. It is further submitted that, the applicant No.1 is not a highly educated person and due to this, she found it difficult to pursue the matter with required diligence before the Family Court.

4. This Court is of the opinion that since the applicants in the present case are seeking maintenance from the sole respondent, who is the husband of the applicant No.1, it would be in the interest of justice that an opportunity is granted to the applicants to be able to place their case on merits before the Family Court. The applicant No.1 is partly to blame for dismissal of the application in default before the Family Court, but, it would be in the interest of justice that the impugned order is set aside and the application for maintenance filed on behalf of the applicants is restored, with an opportunity to the applicants to have their claim decided on merits. It is specifically submitted on behalf of the applicants before this Court that since the year 2016, the applicants have not received any amount towards maintenance from the respondent.

5. In view of the above, the Revision Application is allowed. The impugned order is set aside. The application for maintenance filed on behalf of the applicants under Section 125 of Cr.P.C. stands restored before the Family Court. The Family Court is

directed to decide the application for maintenance on merits and at the same time the applicant No.1 before this Court is directed to diligently appear before the Family Court and to assist the Family Court to arrive at a proper conclusion on merits.

6. The Application is disposed of.

JUDGE

MP Deshpande