

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

18 CRIMINAL REVISION APPLICATION NO.21 OF 2019

**DHAMMAPAL S/O. ROHIDAS BANSODE
VERSUS
ASHWINI W/O. DHAMMAPAL BANSODE**

Mr.R.S. Deshmukh, Sr. Advocate i/b. Mr. Amit A. Mukhedkar, Advocate for the applicant.

Mr.D.V. Nandedkar, Advocate for the respondent.

**CORAM : KISHORE C. SANT, J.
DATED : 26.09.2022**

PC :-

01. Heard learned Sr. Advocate Mr. R.S. Deshmukh i/b. Mr. Mukhedkar, learned Advocate for the applicant and learned Advocate Mr. D.V. Nandedkar for the respondent.

02. Learned Sr. Counsel Mr. Deshmukh urged this Court that this matter requires reconsideration at the level of the Trial Court. He states that in-fact, there is no relationship as husband and wife between the parties. The husband has already married with some other lady in 2016.

03. The learned Advocate for the respondent vehemently argued that there is marriage between the parties in 2013 itself. The main bone of contention is whether there is really a marriage between the parties or not. It is a matter of fact that inspite of several chances, the revision applicant did

not participate in the proceedings. He did not even cross-examine a witness that is father of wife in the Trial Court and the entire evidence has gone unchallenged.

04. The learned Sr. Counsel Mr. Deshmukh, however, submits that he should get an opportunity to contest the matter on merits. For some reason, he could not participate in the Trial. He also shown readiness to deposit 50% amount of the arrears within a period of four weeks from today in the Trial Court.

05. The learned Advocate for the respondent vehemently opposed the proposal. He states that, in-fact, since the date of order, not a single rupee is paid or deposited by the applicant and certain conditions should be imposed on the applicant by directing him to deposit entire amount of arrears and continue to pay an amount of Rs.3000/- per month as directed by the Trial Court.

06. Heard learned Advocates appearing for both the parties. It appears that this is a case which needs to be remanded, so as to give one more opportunity to the revision applicant. To balance the equities, it is necessary to put certain conditions on the applicant. In the result, following order is passed :-

ORDER

- i) The impugned order dated 15.12.2018 passed by the learned Judge, Family Court, Nanded in a proceedings bearing

Petition No.E-131/2016 is set aside and the petition is remanded back, subject to condition that the applicant-husband would deposit 50% amount of arrears within a period of four weeks and further continue to pay Rs.3000/- (Rupees Three Thousand) per month towards maintenance till disposal of the petition.

ii) The respondent-wife is at liberty to withdraw the amount that will be deposited in the Family Court, Nanded.

iii) The applicant-husband will be at liberty to cross-examine the witnesses already examined by the respondent-wife and to lead his evidence.

iv) The Trial Court shall make endeavour to dispose of the petition expeditiously. The parties are directed to co-operate in speedy disposal of the proceeding without seeking unnecessary adjournment.

v) The criminal revision application is accordingly disposed of.

[KISHORE C. SANT, J.]