

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

981 CRIMINAL REVISION APPLICATION NO.96 OF 2021

**KIRAN VASANT CHAUDHARI (GANTHALE)
VERSUS
SWATI KIRAN CHAUDHARI (GANTHALE) AND ANR**

Shri. Shaikh Mohammad Naseer A., Advocate for the applicant
Shri. A. P. Bhandari, Advocate for respondent Nos. 1 and 2.

**CORAM : M. G. SEWLIKAR, J.
DATED : 29th MARCH, 2022**

PER COURT :-

1. Heard.
2. Applicant challenges the order dated 8th July, 2021 in Petition E No. 338 of 2018 of the learned Family Court awarding maintenance of Rs.6,000/- per month to respondent No. 1 and Rs.3,000/- per month to respondent No.2 who is the minor son of respondent No.1 and the applicant.
3. Learned counsel Shri. Shaikh for the applicant submits that respondent No.1 has made false allegation in maintenance petition that the present applicant had taken Rs.13,50,000/- from the brother and sister of respondent No. 1-

wife. He submits that respondent No.1 has admitted in cross-examination that if applicant pays the amount of Rs.13,50,000/- to the brother and sister of respondent No.1, she is ready to resume cohabitation with the applicant. He submits that applicant was a Commission Agent. Now he is jobless. He submits that the applicant is not in a position to pay such a huge amount of maintenance to the respondent Nos. 1 and 2. Learned counsel Shri. Shaikh further submits that respondent No. 1 is doing a job. Therefore, she is not in need of maintenance. Since respondent No. 1 has admitted that she is ready to resume cohabitation with applicant only if amount of Rs.13,50,000/- is paid to her brother and sister, it clearly goes to show that applicant has not refused or neglected to maintain respondent Nos. 1 and 2.

4. Learned counsel Shri. Bhandari for respondent Nos. 1 and 2 submits that respondent No.1 was doing a job. He submits that to save her marriage, respondent No.1 left the job. He submits that applicant was employed in a bank as Manager. He left the job and started working as Commission Agent. His earnings are quite lucrative. He further submits that the

applicant has indulged in character assassination of the respondent No. 1. He has treated her cruelly. Therefore, the learned Family Court has not committed any error in awarding the maintenance.

5. Revisional court cannot reappreciate evidence unless it is shown that the findings of the Family Court are perverse. In the case at hand the respondent No.1, undoubtedly, has given admission that she is ready to resume cohabitation with applicant if amount of Rs.13,50,000/- is paid to her brother and sister by the applicant. It is settled principle of law that admission is a good piece of evidence if it is clear and unambiguous. Admission has to be read as a whole. A stray statement cannot be culled out and the respondent No.1-wife cannot be non suited on the basis of this stray admission.

6. The learned Family Court has observed in its order in paragraph No.22 thus:

"22. The applicant wife is coming with the case that, her husband and their relatives were suspected over her character because of her up-down from Dhule to Bhusawal for her job. Such kind of attitude on the part of husband and his

family members is kind of cruelty. Whenever the section 125 of the Cr.P.Code is concerned it is for the wife to prove only that her husband has neglected or refused her to maintain. Here in this case there is nothing on record that, after the separation and particularly when wife is jobless, the husband has provided any maintenance to her and her son during her stay at her parents house."

7. The learned Family Court has given cogent reasons. Simply because she has stated in cross-examination that she is ready to cohabit only on payment of Rs.13,50,000/-, respondent No. 1 cannot be non suited. She has stated that applicant and family members had forced her to resign from the job. She has also stated that the applicant and his relatives used to doubt her chastity as she was required to commute from Dhule to Bhusawal on account of her job. The applicant has not provided maintenance to her and the minor son after their separation. This itself indicates that he refused and neglected to maintain the respondents. It is not borne out from the record that respondent No.1 herself had left her matrimonial house of her own accord. Learned Family Court has observed that the applicant had turned her out of the house. Therefore, Family Court was right in holding that applicant has refused and neglected to maintain respondent Nos. 1 and 2. So far as income

is concerned the learned Family Court has not committed any error in awarding the amount of maintenance. Undoubtedly, applicant is working as Commission Agent. Except these two years of pandemic, the income of the applicant must be lucrative otherwise he would not have left the job as Manager. In this view of the matter, I do not find any reason to interfere in the well reasoned order of the Family Court. Hence the order.

ORDER

. Revision application is dismissed.

[M. G. SEWLIKAR, J.]

ssp