

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

CRIMINAL REVISION APPLICATION NO.141 OF 2021

WITH

CRIMINAL APPLICATION NO.2464/2021

IN REVN/141/2021

Chandrakant S/o Bhausahab Ganage,
Age 40 years, Occu. Labour,
R/o Suregaon (Ganage), Tq. Newasa,
District Ahmednagar. ... **Revision Petitioner.**

Versus

Sow. Savita @ Pushpa w/o Chandrakant Ganage,
Age 36 years, Occu. Household,
R/o. C/o. Dadarao Bhavrao Magar,
N-11, H.Sector, Navnath Nagar,
Shoplet N.4, Hudco, Aurangabad. ... **Respondent.**

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Advocate for Applicant-Petitioner : Mr. Randive Sachin S.,
Mr. D. U. Manvatkar.

Advocate for Respondent : Mr. Yogesh Jadhav.

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CORAM : S. G. MEHARE, J.

DATE : 25.11.2022

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally
by consent of the parties.

2. Dissatisfied with the order of learned Judge, Family
Court, Aurangabad, in case No.E-28 of 2019, dated
09.09.2021, the husband has preferred the present revision.

3. Only the quantum of maintenance is under challenge.

4. The learned counsel for the applicant has vehemently argued that while determining the quantum, the learned Judge has erroneously considered the joint family income and exorbitantly determined the quantum of Rs. 15,000/- p.m. He also vehemently argued that 1 Hectore 61 Ares, land stands in the name of the respondent, which is more than the land in the husband's name. The respondent has leased her land on a share basis. Therefore, she has sufficient means of income to maintain herself. He took the Court through the evidence, prayed to quash, and set aside the impugned order.

5. Per contra, the learned counsel for the respondent/wife has vehemently argued that the respondent has specifically deposed before the Court that though the land measuring 1 H. 61 R. stands in her name, it was a family arrangement to save the land from the Ceiling Act. In fact, the applicant/husband is cultivating the said land. Therefore, she has no source of income. After considering the inflation of the day and her needs, the learned Judge has correctly determined the quantum. He added that the applicant performed a second marriage since the respondent/wife did not conceive. He prayed to dismiss the petition.

6. The following points arise for the determination of this Court, and findings are recorded thereon for the reasons to follow :

Sr. No.	Points	Findings
1.	Whether the impugned order determining the quantum of maintenance is incorrect, erroneous and improper?	In negative.
2.	What order?	As per the final order.

7. **POINT NO.1** :- It is proved that the land, measuring 1 H. 61 Are, was standing in the name of the respondent/wife, in 7/12 extract. However, she deposed that she never cultivated the said land. The applicant/husband cultivates the said land. She resides in Aurangabad, and the land is situated in Village Galnimb, Tq. Newasa, Distt Ahmednagar. To rebut this evidence, the applicant/husband came up with a case that the respondent/wife has leased the said land on sharing and is getting income from the said field. However, the husband has no cogent and reliable evidence except for the bare words. He even did not suggest to her, in her cross-examination, the name of the person to whom she had leased the land on sharing.

Admittedly, the applicant/husband has independent land Gat No.65/4. There was a Well in his field as well as the field standing in the name of the respondent/wife. The 7/12 extract of the revenue record reveals that the applicant had sown the sugarcane, *bajra* and gram. The respondent/wife also placed on the record, the document showing that the applicant had received the money for selling sugarcane to the Sugar factory. The land appears fertile and of good quality, which fetches a good income. Hence, it is held that he had sufficient income.

8. In the absence of the evidence that the respondent/wife cultivates the land though it stands in her name, the learned Judge has correctly observed that the respondent/wife has no income from the said field. The applicant/husband failed to prove that the respondent/wife has a sufficient income source and can maintain herself.

9. The applicant/petitioner, being a husband, has an obligation to maintain the wife unless she is disentitled. The learned Judge, Family Court, has correctly appreciated the evidence within the four corners of the Law. The learned Judge had rightly considered the need of the day, the sky-touching prices of daily needs, and the standard of living of the family of the wife before she was deserted.

10. Evaluating the material, the Court is of the view that the learned Judge has committed no error in determining the quantum of maintenance. There was no evidence to believe the petitioner's case. Hence, this point is answered in the negative.

11. **POINT NO.2** :- The discussion made above led this Court to arrive at the conclusion that the impugned order is free from error and does not warrant interference at the hands of this Court. Hence, the following order :

ORDER

01. The Criminal Revision Application stands dismissed.
02. No order as to Costs.
03. Rule stands discharged.
04. Nothing survives for consideration in civil application No.2464 of 2021 and is accordingly disposed of.

(S. G. MEHARE, J.)

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vmk/-