

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

**912 CRIMINAL REVISION APPLICATION NO.234 OF 2018
WITH CRIMINAL APPLICATION NO. 2545 OF 2022**

**SHAIKH GAFURODDIN S/O. SHAIKH SHAMSODDIN
VERSUS
ZAKIYA W/O. GAFURODDIN SHAIKH**

Mr. G. J. Pahilwan, Advocate for the applicant
Mr. Shaikh Kayyum Najir, Advocate for the respondent

CORAM : KISHORE C. SANT, J.

DATE : 29th September, 2022

P. C.

1. Heard the learned advocates for the parties. It is the case of the revision applicant that the respondent is not his wife. Name of his wife is Rukiya as per the Nikahanama. Whereas name of the respondent is Zakiya.

2. The learned advocate for the respondent-wife states that Nikahanama is translated in Marathi. However, while translating the Nikahanama a mistake is committed. Name of respondent wife is Zakiya, whereas in translation, it is shown as Rukhiya. He submits that this mistake is because in Urdu alphabet 'Z' is very similar to alphabet 'R'. Difference is very subtle and not noticeable in the photo copy and therefore, this mistake has occurred. In view of this dispute, the learned Family

Court has clearly observed that in such case, it was necessary for the applicant-husband to examine the person who translated the Nikahanama in Marathi.

3. The learned advocate for the applicant-husband submits that it was necessary for the respondent-wife to prove that she is his wife and to examine witness.

4. Both the learned advocates for the parties accept that proceeding before the Family Court for maintenance is summary in nature. In summary proceeding, the court cannot go into the aspect of deciding the validity of the marriage or the relationship between the parties, when there is dispute. The Court is expected to go as per the record placed before it, when it was a case of the applicant-husband that respondent is not his wife, it was necessary for him to prove the same. It is the case of the husband that respondent-wife is not his wife. He has performed the marriage with one Rukhiya and not with Zakiya i.e. present respondent. It was thus, necessary for the husband-applicant to prove that the respondent-wife is not his wife and his wife is Rukhiya who is not before the court. The learned trial court in para 22 of the judgment has rightly considered that it was for the applicant-husband to prove the case. In the civil suit there is a positive finding in favour of the respondent showing her to be legally wedded wife.

5. Considering this aspect, this court do not find any perversity or illegality committed by the learned Judge, Family Court, Aurangabad in deciding E-Petition No.302/2016 by its order dated 01-08-2018. In the result, even otherwise considering that the amount of maintenance awarded is only Rs.1,000/- per months, there is no merit in the matter. Hence, this criminal revision application is dismissed. In view of dismissal of criminal revision application, the criminal application does not survive and disposed of.

[KISHORE C. SANT, J.]

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