

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

**14 CRIMINAL REVISION APPLICATION NO.201 OF 2016  
BALASAHEB S/O NANDU KALE  
VERSUS  
SONALI W/O BALASAHEB KALE AND ANR**

Mr.S.A. Gaikwad, Advocate for the applicant.

Mr.S.V. Hange, Advocate for respondent Nos.1 and 2.

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

**PC :-**

01.           Heard learned Advocates for both the sides. It is case of the husband-applicant that while granting maintenance to the wife, the learned Court below has not considered that there is decree of restitution of conjugal rights in favour of the husband and inspite of the decree the wife is not residing with the husband and therefore she is not entitled to receive any maintenance. The second submission is that there is no evidence on record to show income of the husband. The land which is mentioned by the respondent wife, stands in the name of father of the husband. The husband is working only as a labourer and does not have any income source. He states that it is wrongly stated that the shops belongs to the husband and the learned Court below only on the basis of two photographs has held that the husband is owner of the shops those are seen in the photographs etc. He prays that the income of the husband is not proved. Considering that he is working as a labourer, the amount granted towards maintenance is exorbitant.

02. The learned Advocate for the respondent wife pointed out from the evidence that the wife in her deposition has stated that the husband is having agricultural land, he carries business of threshing machine. He also has property in his name i.e. shops, which are brought on record and thus he is getting good income out of the business and from the rent of the shops etc. The husband has not stepped into witness box to rebut this evidence. Neither evidence of wife is shattered in the cross-examination.

03. The learned Judge, Family Court, Aurangabad has considered all these aspects. It is clearly observed by the learned Judge that in the deposition, the wife, in cross-examination has clearly stated that she is ready to cohabit with the husband. Thus, there is nothing on record to show that the husband has made any attempt to take the wife for co-habitation pursuant to the decree of conjugal rights. The learned Judge has granted an amount of Rs.5000/- to wife and Rs.2000/- to daughter per month towards maintenance. The amount does not appear to be exorbitant. The husband has not produced anything on record to show that his income is not that much. He has not even stepped into witness box to rebut the testimony of the wife. Considering the observations and the findings recorded by the learned Judge, Family Court, Aurangabad, this Court finds that no case is made out for interference in the judgment within the limited scope of revision. Hence, the criminal revision application is dismissed with no order as to costs.

**[KISHORE C. SANT, J.]**