

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

**929 CRIMINAL REVISION APPLICATION NO.305 OF 2018**

**SIDDHANT S/O. MAHADEO MAKASARE  
VERSUS  
MADHURI W/O. SIDDHANT MAKASARE**

Mr.N.B. Narwade, Advocate for the applicant.

Mr.V.P. Bakal, Advocate for sole respondent.

**CORAM : KISHORE C. SANT, J.  
DATED : 15.09.2022**

**PC :-**

01. Heard both the sides. The criminal revision application is arising out of matrimonial dispute between the applicant and the respondent.

02. The learned Advocate for the applicant at the outset submitted that the wife has left the company of the husband on her own accord and without there being any sufficient reason and therefore she would not be entitled to receive the maintenance. He pointed out that now even there is decree of divorce passed in favour of the husband on the ground of desertion, which would clearly show that the wife has left the company of the husband on her own accord. He further pointed out the evidence of defence witness

No.2; the Principal of the school, who has deposed in the evidence that the original applicant-wife was working as a teacher in the school, namely, Yashshri Academy, wherein she was getting salary of Rs.7000/- per month. In the cross, she accepted that the said service was of a temporary nature. She stated that the wife was in service only till 30.06.2018 and thereafter she was not in service. From the impugned judgment, learned Advocate Mr. Narwade pointed out that the Trial Court has not given proper reasons while awarding the amount of maintenance.

03. From para 42 of the judgment, the learned Advocate for the applicant pointed out that the salary of the husband is only Rs.12,000/- per month. He further submitted that the wife is well educated person. She runs a beauty parlour and from that she is getting handsome income. He ultimately states that now the decree of desertion fortifies his stand before the learned Trial Judge that the applicant wife is residing separately without any reason. About the conduct of the wife he stated that even she had filed case under section 498-A of the Indian Penal Code, wherein all the accused are acquitted. He further pointed out from paragraph No.23, page No.60 of the criminal revision application to show that the wife is in-fact working. At the

last, he submitted that considering the income of the husband, the quantum of maintenance i.e. Rs.4000/- per month is an exorbitant amount and that needs to be proportionate to the income of the husband.

04. Heard learned Advocate for the respondent. He relies on the judgment delivered by the Hon'ble Apex Court in the case of **Dr. Swapan Kumar Banerjee Vs. The State of West Bengal & Anr., Criminal Appeal Nos.232-233 of 2015**. He submitted, relying on the said judgment, that even if there is decree of divorce on the ground of desertion, still such wife is entitled to receive a maintenance. He pointed out from the cross-examination of the husband that though he asserted that the wife is getting income, however, in the cross-examination he clearly accepted that he does not have any proof to show that the wife is earning. The learned Advocate for the respondent further states that the amount of Rs.4000/- was awarded as maintenance in 2018. Now, as there is rise in all the prices, more amount is required for meeting out the expenses, at the same time, the income of the husband must have increased. Considering all these circumstances, the amount does not appear to be exorbitant.

05. Considering all these aspects and considering the findings recorded by the learned Trial Judge, this court is of the opinion that there is no perversity in the findings recorded by the learned Judge, Family Court, Ahemednagar in Petition E-103 of 2018 dated 26.10.2018. Hence, no interference is required, as there is no merit in the present criminal revision application. Resultantly, the criminal revision application fails and disposed of accordingly with no order as to costs.

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