

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

961 CRIMINAL REVISION APPLICATION NO.113 OF 2022

VIKAS MOHAN HARALE
VERSUS
RATNAPRABHA W/O VIKAS HARALE AND ANOTHER

...
Advocate for Applicant : Ms. Pratiksha Kale h/f Mr. Kulkarni
Suvidh S.
Advocate for Respondents : Mr. Gadekar Anant D.
...

CORAM : S. G. MEHARE, J.
DATE : 07.02.2023

PER COURT :-

1. Heard the learned counsel for the applicant and learned counsel for the respondents.
2. Learned counsel for the applicant has vehemently argued that due to the absence of lawyer representing him before the Trial Court, he could not cross-examine the applicant. He is not at fault. Therefore, opportunity may be granted to him to contest the matter on merit.
3. Learned counsel for the respondent would submit that the contention of the applicant is not bonafide. The respondents have no source of income. Therefore, prayer to remit the matter back cannot be accepted.

4. Perused the record and impugned order. Learned counsel appearing for the present applicant was found absent on the material date. In the interest of justice, opportunity to contest the petition on merit may be granted and the matter may be remitted back to the Trial Court for disposal on merit without disturbing the order of this Court dated 22.08.2022, except some modification. Hence, the following order :

ORDER

- (i) Criminal Revision Application is allowed.
- (ii) The impugned judgment and order of learned Judge, Family Court, Jalna in Petition No.E-13 of 2021, dated 07.01.2022 is quashed and set aside on the condition that the applicant shall continue to pay Rs.5,000/- per month till the disposal of the application.
- (iii) The case is remitted back for trial afresh.
- (iv) Opportunity be granted to both sides to lead the evidence.
- (v) Record and Proceedings be returned to the learned Family Court, Jalna.

- (vi) Learned Judge, Family Court is directed to dispose of the application at the earliest.

(S. G. MEHARE, J.)

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vmk/-