

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

CRIMINAL REVISION APPLICATION NO.122 OF 2021

WITH

CRIMINAL APPLICATION NO.2258 OF 2021

IN REVN/122/2021

Rajendra S/o Namdeo Magre,
Age 42 years, Occu. Education,
R/o Padampura, Navi Vasti, Aurangabad
Dist. Aurangabad. ... **Applicant**

Versus

Gangasagar Rajendra Magre
@ Gangasagar Punjaram Kamble,
Age 30 years, Occu. Agriculture and Business,
R/o Pokhari Pirachi,
Tq. Jafrabad, District Jalna. ... **Respondent.**

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Advocate for Applicant : Mr. Pahilwan Gautam J.

Advocate for Respondent : Mr. V. B. Kulkarni.

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CORAM : S. G. MEHARE, J.

DATE : 06.02.2023

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally by consent of the parties.
2. The present criminal revision application has been preferred against the two consecutive judgments passed directing the applicant to pay the maintenance,

3. The arguments of the learned counsel for the applicant revolve around the facts that the respondent/wife did not prove when the domestic violence was committed and the divorce decree passed in favour of the applicant has also not been properly weighed. He relied on the case of ***Deb Narayan Halder Vs. Anushree Halder (2003) 11 Supreme Court Cases 303***, in which, the law has been laid down that when the wife left her matrimonial home without any justifiable ground, she is not entitled to the maintenance. He further argued that the judgments of both Courts are erroneous on the face of record. They did not consider the legal position of the entitlement of the wife after the divorce. Therefore, both judgments and orders are erroneous.

4. Per contra, the learned counsel for the respondent has argued that the facts have been discussed in detail by both Courts, the law relating to the entitlement of the relief under D. V. Act has also been discussed in detail, it has been proved that the domestic violence was caused. The applicant had withdrawn his petition for restitution of conjugal rights and during the application was pending under D. V. Act, he obtained the ex-parte divorce. He has referred to paragraph No.20 of the judgment of learned Judicial Magistrate, First

Class, Jafrabad, wherein the case of ***Juveria Abdul Majid Patni Vs. Atif Iqbal Mansoori (2014) 10 SCC 736*** has been referred. Referring the judgments of the Courts, he would argue that both judgments are free from infirmity and error of law. Therefore, the criminal revision application deserves to be dismissed.

5. Perused the judgments and orders impugned before the Court. The learned Judicial Magistrate First Class has correctly referred to the law laid down by the Hon'ble Apex Court in *Juveria Abdul (supra)*, in which, the law has been laid down that the act of domestic violence once committed, subsequent decree of divorce will not absolve the liability of the respondent from the offence committed or to deny the benefit to which the aggrieved person is entitled under the Domestic Violence Act, 2005 including the monetary relief under Section 20, 21, 22 and 23 of the Domestic Violence Act.

6. The law is well settled that the subsequent decree of divorce after the application under D. V. Act is filed does not absolve the respondent from his liability including the monetary relief. Both Courts have discussed the law and considered the defence of divorce prayed by the petitioners.

7. Both Courts have also considered the defence of the petitioner/husband that she herself left his home. After appreciating the evidence, they have correctly discarded the defence.

8. The judgments and orders impugned before this Court appears to have been passed appreciating the facts, evidence and the law pertaining to the dispute. Both judgments and orders are free from error. The applicant has no strong ground to seek the interference in the impugned judgments and orders.

9. For the above reasons, the Criminal Revision Application stands dismissed.

10. Rule made discharged.

11. Criminal Application No.2258 of 2021 accordingly disposed of.

12. Record and Proceedings be returned to the learned Judicial Magistrate First Class, Jafrabad.

(S. G. MEHARE, J.)

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vmk/-