

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPEAL NO. 514 OF 2022

GAJENDRA GOVINDRAO WAIKAR VS. MRS. LAXMI W/O. GAJENDRA WAIKAR

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Gajendra Waikar (in person).
Mr. Amol Hunge, Advocate for respondent.

CORAM : ANIL L. PANSARE J.

DATE : 08/02/2023

Heard.

2. The appellant has filed appeal under Section 341 of the Criminal Procedure Code, 1973 against the order 30/03/2021, passed in Cri.M.A.No.41/2019, which was separately filed under Section 340 of the Cr.P.C. for initiating proceeding against the non-applicant wife for willfully and intentionally making false statements and tendering false evidence in the Court.

3. According to the appellant, his wife has misled the Court by suppressing true facts. It appears that the proceeding under Section 125 of the Code were initiated by the wife against the appellant.

According to the appellant the wife has suppressed her income in those proceedings and therefore, he has filed application under Section 340 of the Code which was registered as Cri.M.A.No.41/2019.

4. The learned Family Court vide order dated 04/09/2019, had formed opinion that preliminary enquiry is necessary and directed the appellant to file evidence, the appellant did not do so and therefore, learned Family Court observed that appellant has not proved the offences alleged against his wife. The appellant instead of entering witness box has sent a mail dated 20/03/2021 to the Court for passing orders in the case. Learned Family Court has thereafter observed that in the proceeding under Section 125 of the Code, the appellant had ample opportunity to cross-examine his wife on the point of income. He himself had opportunity to prove that his wife was working at the relevant time. The appellant did not do so. Considering the totality of these circumstances, the learned Family Court found that the appellant failed to make out a case and therefore, rejected the application.

5. The prime question involved is that by order dated 04/09/2019, the appellant was directed to file evidence. The said order has not been

challenged by the appellant. Therefore, the only option left with the appellant was to comply the order by filing evidence. Admittedly, the appellant did not file evidence and therefore, he can not make any grievance against the impugned order. There is no merit in the appeal. It is liable to be dismissed and stands dismissed accordingly.

JUDGE