



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.151 OF 2024

Omkar S/o. Panditrao Khalse,  
Age : 28 years, Occu. : Tirupati Online  
Centre Establishment, R/o. Kingaon,  
Tq. Ahmedpur, Dist. Latur.

... Applicant

Versus

1. Kalpana W/o. Omkar Khalse,  
Age : 26 years, Occu. : Labour,  
R/o. Kingaon, Tq. Ahmedpur,  
Dist. Latur, At present R/o.  
C/o. Namdev Gopinath Chavan,  
R/o. Budhoda, Tq. Ausa, Dist. Latur.

2. Tirupati S/o. Omkar Khalse,  
Age : 06 years, Occu. : U/G of Petitioner  
Omkar S/o. Panditrao Khalse

... Respondents.

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Mr. Satish S. Manale, Advocate for Applicant  
Mr. Joydeep S. Kadam, APP for Respondent Nos.1 and 2  
.....

**CORAM : ABHAY S. WAGHWASE, J.**  
**RESERVED ON : 21 NOVEMBER 2024**  
**PRONOUNCED ON : 26 NOVEMBER 2024**

**ORDER :**

1. Revisionist husband is seeking quashment of judgment and order passed by Family Court, Latur dated 30.01.2024 in Petition No.E-240 of 2021.

2. Learned counsel for applicant submitted that, present revision applicant got married to respondent no.1 in 2014 and out of

their wedlock, they have a son i.e. respondent no.2. That, respondent no.1 levelled false allegations by instituting proceeding under section 498-A of Indian Penal Code and also put up claim for maintenance before Family Court. It is further pointed out that, initially he engaged Advocate Shri U. D. Kamble, but subsequently because of inability of said Advocate to contest proceeding from Chakur, he engaged another Advocate Shri Ambekar and no say order was set aside by paying cost. That, revisionist also succeeded in getting decree of restitution of conjugal rights against respondent no.1. In spite of his best efforts, respondent no.1 deliberately did not come to cohabit and rather without sufficient reasons and cause deserted revisionist and moreover claimed maintenance. That, in fact revision applicant is a student and he has no employment for source of income nor has any ancestral property.

3. It is submitted that, subsequently Advocate Shri Ambekar, who was representing his cause, got appointment as APP and there was communication gap between said Advocate and applicant resulting into failure to lead evidence. That, again, he was required to deposit cost, however, learned trial court vide judgment and order dated 30.01.2024 granted maintenance of Rs.3,000/- to the wife and Rs.2,000/- to the son - respondent no.2. It is pointed out that, there was no basis for computation for such maintenance. That,

there is error on the part of Family Court in appreciating the claim and further failure to consider that he had no distinct income to provide such maintenance. For above reason, Revision is urged to be allowed by setting aside the impugned judgment.

4. Learned counsel Shri Joydeep Kadam for respondents opposing the Revision submitted that due to physical and mental cruelty, respondent was required to leave company of husband. That, moreover he performed second marriage. He repeatedly and deliberately avoided contesting the proceedings before Family Court, and therefore, according to him, no fault can be found in the appreciation at the hands of learned trial Court.

5. Heard both sides. Perused the papers including impugned order. Apparently, parties before the court as husband and wife, who seems to have got married on 28.11.2014 and out of their wedlock and cohabitation, they have a son i.e. respondent no.2. It seems that, on account of demand and ill treatment, present respondent after parting company of revisionist, filed complaint under section 498-A of IPC and thereafter instituted proceedings for maintenance by invoking section 125 of Cr.P.C. before Family Court, Latur, thereby claiming maintenance of Rs.15,000/-, alleging income of husband to the tune of Rs. 80,000/- per month.

6. Defence set up in trial court by revisionist that respondent wife was keen in residing separately from parents and family members, and therefore, was leveling false allegations and thereby seems to have demanded maintenance.

7. Perused the judgment assailed herein. Learned trial court seems to have on appreciation of evidence, reached to a finding that, revisionist has failed and neglected to maintain wife and son. Though, revisionist set up a case that respondent wife worked in Sahyadri Hospital as a Nurse and sold sarees and thereby had sufficient income, he failed to establish and substantiate such contentions. Even respondent wife seems to have failed to substantiate earnings of revisionist to the tune of Rs.80,000/-. Mere communication gap between counsel and their revisionist, is no good ground to disturb the findings recorded on complete appreciation. Revisionist was expected to be diligent in prosecuting and contesting claim petition set up by wife. As regards to quantum of maintenance awarded by learned trial court is concerned, it transpires that, in absence of concrete evidence about income of revisionist, by applying notional income, learned trial court calculated the maintenance entitled by wife and son to the tune of Rs.3,000/- and Rs.2,000/- respectively. The same is not shown to be excess or exaggerated. Therefore, as no

case being made out for any interference in any manner, revision fails. Hence, the following order :

**ORDER**

The Revision Application is dismissed.

**(ABHAY S. WAGHWASE, J.)**