



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**942 CRIMINAL REVISION APPLICATION NO. 189 OF 2022
(WITH CRIMINAL APPLICATION NO. 630 OF 2024)**

Siraj S/o. Daulat Khan Pathan

VERSUS

Julekha W/o. Sirajkhan Pathan and Others

Advocate for Applicant : Mr. Patel Shaikh Ashpak Taher

APP for Respondent/State : Mr.P.P. Dawalkar

APP for Respondent Nos.1 and 2 : Smt.Almas Shaikh Riyaz
(appointed Through Legal Aid)

**CORAM : SANJAY A. DESHMUKH, J.
DATED : 12th APRIL, 2024.**

PER COURT :-

1. This revision is directed against the order dated 04.05.2019 passed by the learned Judicial Magistrate, First Class, Shirur Kasar, Dist. Beed in (PWDVA) No.26 of 2014. Upon which an appeal bearing Criminal Appeal No.9 of 2021 was decided by the learned Sessions Judge, Beed by judgment dated 02.06.2022.

2. The grounds raised in the application are that the order passed by the trial Court is not legal and correct. The applicant is disabled. The evidence was not properly appreciated. The order is against the provisions of law and judicial mind was not applied. It is lastly prayed to quash and set aside the said order.

3. The learned advocate for the applicant submitted the written notes of arguments, which is marked as "X-1". It is submitted that the applicant is having disability, however, the medical certificate of 94% of his disability is not considered. Further the applicant is suffering from Cancer and medical certificate is also filed on record and the same is also not considered. He had also submitted certificate of mental disability of 65% and 94% of locomotor disability issued by the Medical Authority, Ahmednagar. Department of Pathology, AIIMS Delhi has also issued Pathology report which clearly suggests that the applicant is suffering from Cancer. The learned trial Court has not considered those aspects and passed the impugned order. The appellate court also did not consider that aspects in its proper perspective. It is lastly prayed to allow the application.

4. The learned advocate for respondent nos.1 and 2 submitted that some fabricated evidence is created by the applicant in order to avoid his liability to pay the maintenance. The applicant is having so many businesses and his evidence is also not reliable. Therefore, the trial Court has rightly disbelieved his evidence. He is running travels business and other businesses. In paragraph no.10 of the judgment of the trial Court, it is observed that the respondent – wife is doing the business of prostitution in Ahmednagar, however, no such evidence is brought on record. The trial Court in its judgment in

para 12 considered the oral and documentary evidence and came to the conclusion that even the applicant is bound to maintain his wife and daughter. There is absolutely no reliable evidence brought on record by the applicant showing that he is suffering from Cancer and locomotor disability. The learned Sessions Judge also in para 20 observed that the applicant had not adduced any cogent reliable evidence even though sufficient opportunity was given to him to produce the evidence.

5. Affidavit in reply of respondent nos.1 and 2 if considered along with oral arguments submitted on behalf of the respondents with the reasons of both the Courts, then this Court is of the view that there is no scope for interference in the impugned order. The order passed by the learned trial Court is legal and correct. Therefore, the contentions in the written argument submitted on behalf of the applicant is not acceptable. The application, therefore, deserves to be rejected with costs of Rs.10,000/- to be paid by the applicant to respondent nos.1 and 2. It is because the respondents must have incurred some amount to represent her cause in this proceedings since 2022.

6. The application is rejected. The applicant is directed to pay Rs.10,000/- as costs to respondent nos.1 and 2. He shall deposit Rs.10,000/- as costs in the trial Court.

7. It is submitted that applicant has not deposited the amount of maintenance till today. The trial Court / executing Court has to call for concerned Police Station Incharge and to get executed the judgment and order of maintenance. If the directions are not followed by the Police Station concerned the trial Court may take action against the concerned Police Station Officer as per Chapter X of the Criminal Procedure Code for contempt of lawful authority. If the said amount is not deposited in the trial Court, the trial Court can take coercive action against this applicant – husband for recovery of it by arresting him and keeping him behind bars, if the said amount is not recovered as per the provisions of law.

8. Fees of Mrs. Almas Shaikh Riyaz, learned advocate appointed to represent cause of respondent nos.1 and 2 be paid through the High Court, Legal Services Sub-Committee, Aurangabad, as per the schedule and rules.

9. In view of disposal of Criminal Revision Application itself, Criminal Application No.630 of 2024 stands disposed of.

(SANJAY A. DESHMUKH, J.)