



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

CRIMINAL REVISION APPLICATION NO. 246 OF 2022

ASHWINI NILESH PATIL (NER PAGAR) AND ANOTHER  
*VERSUS*  
NILESH BHAGWAN PATIL (NER PAGAR)

...  
Advocate for Applicants: Mr. Nirmal Ravindra  
...

**CORAM : S. G. MEHARE, J.**

**DATE : 26-08-2024**

**PER COURT :-**

1. Heard the learned counsel for the applicants. None was present for the respondent.
2. The applicants impugned the judgment and order of the learned Judge, Family Court, Jalna, in Petition No.E-75 of 2021 dated 18.06.2022, refusing the maintenance to applicant No.1 on the ground that she failed to prove that her husband had refused and neglected to maintain her. The respondent/husband was served, but he did not appear.
3. The learned counsel for the applicants submits that the contrary admission about the date of driving her from her and coming back does not disentitle her. The respondent never took her back. Since the beginning she was harassed for the demand of dowry. The case under Section 498A is also pending on the

allegations of harassment for the dowry itself prove that the respondent did not maintain her properly. She has no source of income. The learned Judge, Family Court, Jalna, did not consider the principles under Section 125 of the Code of Criminal Procedure. To show his bona fide, the respondent did not offer an opportunity during the course of inquiry that he was ready to cohabit her. The impugned order is apparently illegal and perverse. Hence, the petition deserves to be allowed.

4. The burden was on the applicant to prove that her husband refused and neglected to maintain her. She must also to prove that she has no income source to maintain herself. The applicant came with the case that the husband drove her out on 15 May 2018. So, the burden was on her to prove that she was driven away on that day, and thereafter her husband never fetched her back. However, her admissions reveal that a month after her delivery, she went to the house of the respondent/husband to reside and cohabit with him. They both went to Surat to make money for their livelihood. They stayed there for a month. She also categorically admitted that her father went to Surat and took her back to Jalna, under the garb of medical treatment, and since then she never went back to the respondent. These are material admissions directly affected to the case of the petitioner that she was driven away on 25 May 2018.

5. The applicant failed to discharge the burden that she was driven away from the house without any cause or reason. This seems to be not an admission given hastily in the cross-examination. There is nothing to believe her testimony. It seems from her cross-examination that they are labourer working together to earn their livelihood. So, she may be able to earn money by labour work. Her candid admission falsified her case. It may be stated that it was imaginary ground created to file an application under Section 125 of the Cr.P.C. The false admissions also disentitle the parties to the proceedings. The reasons recorded by the learned Judge, Family Court refusing maintenance are just, proper and legal. The trial Court did not commit any error of law. Therefore, this is not a fit case to interfere with the impugned judgments and orders. The applicant has no case on merit.

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

7. R & P be returned to the learned Judge, Family Court, Jalna.

**( S. G. MEHARE )**  
**JUDGE**