



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

84 CRIMINAL REVISION APPLICATION NO. 265 OF 2023

DEVENDRA S/O SHIVAJI AATHKHILE
VERSUS
VANDANA W/O DEVENDRA AATHKHILE AND ANOTHER

WITH
CRIMINAL APPLICATION NO. 568 OF 2024
IN REVN/265/2023

WITH
CRIMINAL APPLICATION NO. 4373 OF 2023
IN REVN/265/2023

...
Ms. Maya R. Jamdade Advocate for Applicant.
Mr. G.G. Suryawanshi Advocate for Respondent Nos.1 and 2
in Criminal Revision Application and for applicants in Criminal
Application Nos. 568 of 2024 and 4373 of 2023.

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

DATE : 15th JULY, 2024

ORDER :

1. Heard learned Counsel for the applicant and learned Counsel for the respondent/wife.
2. The applicant has impugned the Judgment and order of the learned Judge, Family Court, Nanded passed in Petition No.E 125 of 2020, dated 3rd October 2022.

3. Learned Counsel for the applicant would submit that the lawyer appointed by the applicant did not attend the proceeding. Hence, the Court proceeded ex parte against him without his written statement. There was a communication gap. The Counsel never intimated further progress to the applicant in the proceeding. Hence, the Court passed ex parte order granting maintenance of Rs.15,000/- per month to respondent No.1 wife from the date of filing of the Petition.

4. Learned Counsel for the respondents submits that the grounds raised in the revision are baseless. There is nothing on record to believe that it was the fault of the lawyer. On the contrary, it is the applicant who did not pay attention to the proceeding. Hence, the Court has correctly passed the impugned Judgment and order.

5. The facts remain that the proceeding has proceeded ex parte. The applicant did not get the representation or an opportunity to contest the Petition. Considering the grounds raised in the application, particularly the denial of the marital tie, the Court is of the view that opportunity needs to be granted to the applicant to contest the Petition on merit. The salary of the applicant has already been attached by the Court. So it would

not harm the respondent/wife. Hence, for the above reasons, the following order is passed:-

ORDER

- (I) Revision Application is allowed.
- (II) The Judgment and order of the Judge, Family Court, Nanded passed in Petition No.E-125 of 2020, dated 3rd October 2022, stands quashed and set aside.
- (III) The matter is remitted to the Judge, Family Court, Nanded to decide the matter on merit by giving an opportunity to both sides within two months from the date of their appearance, subject to the cooperation of all the parties.
- (IV) The order of attachment of the salary of the applicant would continue till the conclusion of the trial.
- (V) Criminal Application Nos. 568 of 2024 and 4373 of 2023 stand disposed of.
- (V) Record and Proceedings be returned to the trial Court.

[S.G. MEHARE, J.]