



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

913 CRIMINAL REVISION APPLICATION NO. 166 OF 2018

**KRANTI W/O. BALAJI MOTORGE AND OTHERS
VERSUS
BALAJI S/O. PANDHARINATH MOTORGE**

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Advocate for Applicant : Mr. Shinde Ganesh P
Advocate for Respondents : Mr. Bilolikar Upendra B.

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**CORAM : Y.G. KHOBRAGADE, J.
DATE : 11.11.2025**

PC:-

1. Heard the learned counsel appearing of the revision applicants and the learned counsel appearing for the revision non-applicant at length.
2. By the present revision, the applicants take exception to the order dated 18.05.2018 passed by the learned Family Court, Nanded in Petition E-68/2017. The learned trial Court has directed the present respondent (husband) to pay Rs.5,000/- each towards maintenance to the present applicant nos.2 and 3 from the date of petition i.e. 14.06.2017, however, claim for maintenance of applicant no.1 was rejected. I have gone through the record. On face of record certain admitted facts narrated are as under:
 - a) On 30.12.2010 the marriage between the revision applicant no.1 and

the respondent was solemnized and out of matrimonial relations they were blessed with two children i.e. applicant nos.2 and 3.

b) The relations between the applicant no.1 and the non-applicant became strained which ultimately turned led filing of Petition A-396/2014 by the non-applicant for restitution of conjugal rights.

c) On 25.01.2016, the learned Family Court Nanded passed a decree of restitution of conjugal rights against the present applicant no.1 (wife) however, the applicant no.1/wife avoided to implement the said decree, therefore, the present applicant no.1 issued a notice on 18.03.2016 which was replied by the present respondent no.16.05.2016. Thereafter, the applicant no.1 along with applicant nos.2 & 3 have filed Petition E-68/2017 and prayed for maintenance.

d) On 18.05.2018, the learned Family Court Nanded passed the impugned judgment and order holding that on 25.01.2016 the decree of restitution of conjugal rights was passed in Petition A-396/2014, however, such decree has not been followed by the applicant no.1 (wife). So also, the respondent husband was drawing net salary of Rs.35,995/- and also having a landed property. Therefore, considering the monthly salary of the non-applicant/husband, the learned trial Court directed the present non-

applicant/husband to pay Rs.5,000/- per month each to the applicant nos.2 and 3 who are school going minor children, however, it denied maintenance to the applicant no.1/wife because she did not follow the decree of restitution of conjugal right passed on 25.01.2016 in Petition E-396/2014.

3. The learned counsel appearing for the applicant placed reliance on the case of **Nitin Kumar Yugdas Mahant V/s. Vanita Nitin Kumar Mahant & Anr.; 2018 (2) Bom.C.R. (Cri.) 423**, wherein the Coordinate Bench of this Court held that when the wife is having knowledge that a proceeding for restitution of conjugal rights is filed, not only that a decree is already against her in spite of the decree she has not joined the company, however, the fact of filing of proceeding for restitution of conjugal rights and passing of decree was not brought to the notice of the wife though the written statement was filed in the proceeding of maintenance. However, the said ratio is not applicable to the facts of the present case.

4. Under these circumstances, it has been held that the wife cannot be disentitled for maintenance even though the decree of restitution of conjugal right is passed because the present revision applicant (wife) had contested the proceeding for restitution of conjugal rights in Petition E-396/2014 and decree was passed on 25.01.2016 which is well within the knowledge of the present revision applicant no.1. Needless to say that when

the applicant no.1/wife is well within the knowledge of the passing of decree of restitution of conjugal rights against her and she did not follow the said decree which shows that the non-applicant/husband was not willing to maintain his wife/applicant no.1 and the applicant has withdrawn the company of the non-applicant/husband at her own accord, therefore, she is certainly not entitled for the maintenance. The applicant no.1/wife has not challenged the decree of restitution of conjugal rights before the competent Court and it is still in existence.

5. On 18.05.2018, the learned trial Court passed the impugned order and granted maintenance in favour of the applicant nos.2 and 3 who are school going minor children but denied the maintenance to the present applicant no.1 which does not stand scrutiny of this Court. Accordingly, the revision is dismissed.

[Y.G. KHOBRADE, J.]