

MHKO110002192014



**Criminal M. A. No. 275/2014.**  
(CNR. No.MHKO110002192014)

**ORDER BELOW EXH. 45.**

01. The instant application is made on behalf of non-applicant.
02. It is submission of the non applicant that, applicant i.e. his wife made the original application under section 128 of Code of Criminal Procedure (In short Cr.P.C.) to recover the maintenance amount granted to her in Cri. M. A. No.03/2010. He paid the some maintenance amount. During the pendency of application differences between the applicant and non-applicant was amicably settled and compromise was took place between them. Applicant rejoin his company. Applicant and non-applicant filed a joint compromise pursis vide **Exh.08**, in Cri. M. A. 201/2016. Accordingly, the same was disposed off. Applicant cohabited with the non applicant till August 2021. After that some dispute was took place and again she left her matrimonial home and went to her parental home. As, applicant filed a joint compromise pursis in Cri. M. A. 201/2016, which was also made to recover the maintenance amount granted to her in Cri. M. A. 03/2010. She, is not entitled to recover the maintenance amount, as she waved off the same by way of joint compromise prusis filed in Cri. M. A. 201/2016. Hence, non applicant made the instant application to reject the original application i.e. Cri. M. A. 275/2014.
03. Applicant filed her say on the leaf of the application. She denied all the contention of the application. She submitted that, she did not wave her right to recover the maintenance amount by way of filing compromise pursis. She further

submitted that, she never cohabited with the non applicant as he mentioned in the instant application.

04. It is necessary to consider here the object of Section 125 of Cr.P.C. Section 125 is not a Penal Section, but it is an remedy for the helpless wife, children or parents who are unable to maintain themselves. The object of Section 125 is to prevent the starvation of wife. So, if the present application allowed then it will amount to give an escape to the non-applicant, from making the payment of maintenance amount, which he is legally bound to pay to his wife, i.e. applicant. If, such type of procedure is adopted, then it will frustrate the object of Section 125 of Cr.P.C. Because, it will happen that after directing the husband to pay the maintenance amount to his wife. He will ready to cohabit with her and will file a joint compromise pursis after some days again he will expelled her from the matrimonial house and will come to the Court as, wife cohabited with him and now he is not under liability to make the payment of maintenance amount. So, considering the object of section 125 of Cr.P.C. I am of the candid opinion that, even though applicant filed a joint compromise pursis vide **Exh.08**, in Cri. M. A. 201/2016, the same will not escape the non applicant from his responsibility to make the payment of maintenance amount, granted to applicant in Cri.M.A. 03/2010. Hence, considering above discussion I am of the candid opinion that, the application is not maintainable. Hence, I proceed to pass the following order :-

**ORDER.**

1. Application vide **Exh.45**, stand rejected.
2. Application vide **Exh.45**, disposed off accordingly.

Peth-Vadgaon  
Date. 06/03/2024.

**Sd/-**  
( **L. M. Pathan** )  
Judicial Magistrate F.C., Peth-Vadgaon.