**Revision Application Against Maintenance Order**

**In The Court Of The Sessions Judge, \_\_\_\_\_\_\_\_.**

Criminal Revision Application No. 109/2003

 Applicant

 (Original Opponent)

- Vs.-

 Opponent

 (Original Applicant)

 **A WRITTEN ARGUMENT ON BEHALF OF THE APPLICANT**

May it please your Honour

The applicant above named submits this argument, praying to state as follows :

1. The present criminal revision application is filed by the applicant against the judgment and order of the Hon'ble Judicial Magistrate, First Class, Court No. 1, \_\_\_\_\_\_\_\_, in Miscellaneous Application No. 481/2001, passed on\_\_\_\_\_

2. That the Miscellaneous Application No. 481/2001 was filed by the opponent (original applicant) u/s 125 of the Criminal Procedure Code for maintenance, and the **Hon'ble Trial Court was pleased to pass judgment and order, granting a monthly maintenance of Rs. 1000/- and also the cost of the application as Rs. 2000/-.**

3. That the marriage between the applicant and the opponent took place on \_\_\_\_\_\_\_at \_\_\_\_\_(Place), and they stayed and cohabited together upto the end of July\_\_\_ \_\_

4. That in her application, the opponent alleged that the applicant ill- treated the opponent amounting to cruelty and further that the applicant entered to a second marriage with one, Miss Geeta, and on the strength of such allegations, she contented that the present applicant was not ready and willing to accept her as his wife and live with her.

5. That it is made abundantly clear during the depositions in the court of law that the present applicant was and is ready and willing to cohabit with the opponent and to accept her as his wife. Not only this, but it is also revealed during the depositions in the court of law that the opponent was always ill from the very beginning, as she was suffering from Asthma, but this fact was never made known to this applicant beforehand. Not only this, she again denied, in her notice-reply sent on\_\_\_\_\_\_, through her advocate, Shri that the very fact that she is an Asthmatic patient, and, on the contrary, she said that she has never been a patient of Asthma, and that such a statement of the present applicant to that effect, as it were, was a fabricated story on his part.

6. That it is an admitted fact that the present applicant incurred huge expenses on the medical treatment of the opponent, and also took all possible care of her health during the period of her stay with him for about nine years.

7. That with the sole intention to harass this applicant, the opponent filed a criminal complaint bearing No. 1600/2002, in the court of the Judicial Magistrate, First Class, \_\_\_\_\_\_ , and also a complaint to the superiors of the applicant.

8. That the said **criminal complaint** No. 1600/2002 was decided by the Judicial Magistrate, First Class, \_\_\_\_, on\_\_\_\_\_, and the present applicant was **acquitted** for the fact that the complainant, who is the opponent in the present revision application, never remained in the court for pursing her case, as the same was based false grounds and that there was no substance in it.

9. That as a result of all such harassment, the present applicant had to file a criminal complaint bearing No. 2400/2002 under section 500 of the Indian Penal Code against the opponent and her parents who instigated her in committing such acts of defamation of the applicant. The said criminal complaint is pending in the court of the Judicial Magistrate, \_\_\_\_\_.

10. That the present applicant took special care of the ill health of the opponent, and for this, he also did not accept the promotion to him to a higher post, in the year\_\_, only for the fact that he was required to look after the opponent personally.

11. That the Learned Trial Court misunderstood the very fact that it was the opponent who sent a false notice-reply, dated\_\_\_, to the notice, dated\_\_\_, of the present applicant, who neither received nor replied any notice from the opponent.

12. That the evidence of the applicant's witnesses : (i) Shri , (ii) Shri and (iii) Shri , is a sheer piece of fabrication, for the reasons that there is a difference of twelve years between the ages of the first witness and the present applicant, and they did not know each other on account of their common school, as deposed by the said witness, because after passing out his SSC Examination and joining his service in Pune, in 1985, the present applicant never stayed at Junnar and has all along been in Pune only.

13. That all the depositions given by the witnesses are, therefore, completely disproved in the court of law.

14. That during her depositions in the court of law, the opponent repeatedly admitted that this applicant has no other source of income.

15. That this applicant always looked after the welfare of the opponent in all respects which is clear from his nomination of the opponent and her sister for his provident fund.

16. That it is the opponent who purposely failed to cohabit with the applicant without any *bonafide* cause and simply for the reason of strong instigation of her parents.

17. That the parents of the opponent also made a similar complaint against Shri the husband of the opponent's sister, to his superiors, and that her sister is also not cohabiting with her husband, which proves the sole intention on the part of the parents of the opponent to instigate their daughters.

18. That the second marriage of the applicant, as alleged by the opponent, is thoroughly a fabricated story for which the opponent's father managed to bring such witnesses. Though the second, Shri says that the applicant was residing in his building, he admits that no rent receipts were issued. He further says that he saw the applicant at 9.00 a.m. The applicant is throughout in the service at the Education Department, and also residing in its residential quarters. His office Woking hours are from 10.30 a.m. to 5.30 p.m. Junnar is above 75 km away from Pune, and, more importantly, the said witness has no building in Junnar which he could let out. He has, however, a house for his own use. He also admits that he was not knowing the lady, or her name, or her relation with the opponent, etc. The opponent never stayed at Junnar after March 1985.

19. That as regards the first witness, Shri also, his statement about the second marriage and his own description in that respect are all a sheer piece of fabrication. As per the customs and usages in the Maratha and such other communities, no marriages are celebrated in temples. He says that the said temple is about 1000 feet away from the road from where he claims to have witnessed the ceremony. He also says that there was darkness, as the time was 6.30 p.m. The temple is 15'X15'. He did not, however, peep in. The temple has only door and closed from all sides. The door has two feet breadth and the height is such that man is required to bend down and get into the temple. Here also, he mentioned that he was returning from his land at that time. In fact, he has no land in Junnar proper where he said to have been returning that evening.

20. That the third witness, Shri is related to the applicant by blood. He just makes some vague and irrelevant statements which have nothing to do with the actual case.

21. That, thus, all the witnesses are unauthentic and should have, therefore, been discarded outright.

22. That the applicant being a Government servant cannot take up tuitions or such other private work for earning any extra income.

23. That the witness, Shri has clearly said in his deposition in the court of law that they are on cross terms with the said Shri and they had also quarrels with him. He deposed that his sister is sixteen years and is not married.

24. That in the judgment, the Learned Trial Court mentioned that the applicant has taken a second wife/lady on\_\_\_\_, while the statement of the opponent also vary from time to time, namely\_\_\_May\_\_\_ June\_\_\_and\_\_\_July. This surely adds to nothing but results in anachronism in arriving at a decision in the matter.

25. That Learned Trial Court rightly held that as regards the second marriage, the evidence is scanty, and that this point assumes secondary importance. It has also been held that the opponent has never seen such a second wife, etc. etc. This means that whatever the opponent says is all based on hearsay. It is further admitted by the Learned Trial Court that the witness, Shri is aged years, but he is still unable to give certain points of his information. When he is a fully grownup man of 21 years, how could he commit such an ambiguity ? The fact is that he just gives out what he has not seen and all such things which are sprouted from his own head and not from his brain.

26. That the Learned Trial Court adds that :the news of a marriage can never be hidden". Such a logic on its part seems to be a new discovery in so far as its arriving at different dates and gap of over

five months in between the earlier period, i.e.\_\_\_May\_\_\_and the last

date alleged, i.e.\_\_\_June\_\_\_

27. That the Learned Trial Court never considered the very important issue on willing to live with the opponent. He never refused to cohabit with her, and there was, thus, a total failure on the part of the opponent to cohabit with the present applicant.

28. That for the reasons stated above, this applicant prays that the order of the Hon'ble Trial Court, in Miscellaneous Application No. 1600/ 2002, be set aside, and the application of the opponent (original applicant) may very kindly be dismissed with costs.

Sd/-

ADVOCATE FOR APPLICANT

(Original Opponent)

Place:

Dated: