

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

CRIMINAL WRIT PETITION NO.219 OF 2015

Vimalbai w/o Shivaji Gaikwad,
Age 55 years, Occu. Household,
R/o Santoshi Mata Nagar, Udgir,
Taluka Udgir, District Latur

..Petitioner

Versus

1. Shivaji s/o Raghunath Gaikwad,
Age 62 years, Occu. Agri. &
Business, R/o Waigaon,
Taluka Udgir, District Latur

2. The State of Maharashtra

..Respondents

Mr T.M. Venjane, Advocate for petitioner
Mr R.B. Deshmukh, Advocate for respondent No.1
Mr S.R. Palnitkar, A.P.P. for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 29th September 2015

PER COURT

1. It is not in dispute that there was stay operating in various proceedings in the matter of challenge to the recovery of the amount of maintenance, which is not reflected in the order passed by the learned Judicial Magistrate, First Class, Udgir on 7th October 2005, so also in the order dated 12th March 2012 passed by Ad-hoc Additional Sessions Judge-1, Udgir in Criminal Revision No.64/2005. In view thereof, in my opinion, both the orders suffer from non-application of mind and also no discussion in the order could be noticed about provision of Section 125 of Cr.P.C. to the facts of the case.

2. As the orders passed by the Judicial Magistrate, First Class and that of the Ad-hoc Sessions Judge lack reasons, which is considered to

be a live link in between cause to be decided and consideration thereof, in my opinion, both the orders referred above passed by Court below are not sustainable and are hereby quashed and set aside. The matter is restored to the file of learned Judicial Magistrate, First Class, Udgir, who shall pass an order after taking into account the above observations.

3. Criminal Writ Petition stands allowed in above terms.

(N.W. SAMBRE, J.)

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