

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 569 OF 2014

Rohidas s/o Wanshiram Unhale ... **Petitioner**
Age 61 years, Occupation: Pensioner
R/o Panchaleshwar, Taluka Georai
District: Beed.

VERSUS

Rukhminibai w/o Rohidas Unhale ... **Respondent**
Age 49 years, Occupation: Housewife
R/o Panchaleshwar, Taluka Georai
District: Beed.

Mr.Rahul P. Dhase, Advocate for the Petitioner
Mr.S.D. Tawshikar & Mr.Anant Devkate, Advocates for the respondent

CORAM : T. V. NALAWADE &
DATE : 6th July, 2015

PER COURT:

1. The proceeding is filed challenging the judgment and order of Judicial Magistrate First Class in Misc. Criminal Application No.317/2010 and also judgment and order in Criminal Revision No. 157/2013 passed by the Sessions Judge, Beed.

Original proceeding was filed by the preset respondent wife (original claimant) under section 127 of the Criminal Procedure Code against the present petitioner-husband and the maintenance is enhanced by the learned JMFC to make it Rs.2000/-. This order was challenged by the present petitioner husband by filing revision. The

revision came to be dismissed.

2. Submissions made show that maintenance proceeding under section 125 of the Criminal Procedure Code was filed in the year 1992 bearing Misc. Criminal Application No. 117 of 1992 and by decision dated 09.03.1995, maintenance of Rs. 200/- per month was granted to wife and Rs.150 per month in favour of two minors issues.

Proceedings under section 127 Cr.P.C. was filed for enhancement only by wife on 17.06.2010 and the Judicial Magistrate, First Class has granted maintenance @ Rs.2000/- per month to the wife from the date of said application.

3. Submissions made show that at present, the petitioner is required to give maintenance only to respondent wife and his liability in respect of issues is over. The issues are married now. Submissions made show that the petitioner has retired from Government service in the year 2012. He is getting monthly pension which is more than Rs.25,000/-. The present petitioner did not contest the said proceeding. It can be said that he avoided to contest the proceeding, as he would have been required to produce record of pension. As there was no other record and there was only version of wife, maintenance of Rs.2000/- per month was granted to the wife.

4. Learned counsel for the petitioner husband submits that in the proceedings under section 127 Cr.P.C. prayer was made to grant maintenance @ of Rs.1500/- per month, but the JMFC has granted maintenance @ Rs.2000/- per month and so the decision is not tenable on law. The said submission is not acceptable. Under section 125 Cr.P.C. reasonable amount needs to be granted by the JMFC and for that purpose, status of the parties, capacity of husband to make payment need to be considered.

5. In view of the aforesaid circumstances, this Court holds that JMFC has committed no errors in granting maintenance @ Rs.2000/- per month though it was claimed at the rate of Rs.1500/- per month. This Court had occasion to consider the similar point in Criminal Writ Petition No. 107 of 2009, at Principal Seat in the case of Ravindra Ramchandra Tingare Vs. Ashwini Ravindra Tingare. In the result, writ petition is dismissed.

(T. V. NALAWADE, J.)

JPC