

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

CRIMINAL WRIT PETITION NO. 486 OF 2002

Baba S/o Nivrutti Shinde

Age : 47 Yrs., Occ. : Agril.,

R/o : Bhandewadi (Palaswada),

Tq. : Karjat, Dist. : Ahmadnagar.

..... PETITIONER/

[ORIGINAL APPLICANTS]

V E R S U S

1. Sau. Suman Baba Shinde

Age : 37 Yrs., Occ. Labour,

R/o : Jalalpur, Tq. Karjat,

Dist. : Ahmadnagar.

2. Ganesh Baba Shinde

Age : 13 Yrs., Occ. Education.

3. Dinesh Baba Shinde

Age : 11 Yrs., Occ. Education.

R – 2 & 3 are minors, through
their legal guardian R – 1.

..... RESPONDENTS/

[ORIGINAL APPLICANTS]

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Mr. N.B.Suryawanshi, Advocate for Petitioner.

None for the Respondents.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 9th FEBRUARY, 2015

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ORAL JUDGMENT :

1. Heard Mr. N.B.Suryawanshi, the learned counsel for the Petitioner. None for the respondent Nos. 1 to 3 though served.

2. The present petition is filed against the order dated 13/02/2002 passed by the learned Sessions Judge, Ahmadnagar in Criminal Revision No. 229/2001, by which the learned Sessions Judge dismissed the said Revision, since the present petitioner failed to take steps to serve notice on the opponent in the said Revision.

3. The present respondents filed proceedings u/s 125 of the Code of Criminal Procedure in the Court of the Judicial Magistrate First Class, Karjat, district Ahmadnagar. The said proceedings were registered as Criminal Misc. Application No. 279/1999. According to respondent No. 1,

she was married with present petitioner and from their wedlock, respondent Nos. 2 and 3 were born. According to the respondents, they were neglected willfully by the present petitioner and no provision was made for their maintenance. Therefore, the application was moved.

4. The learned Magistrate after considering the pleadings of the parties and the evidence, reached to the conclusion that the respondents were successful in demonstrating before the Court that the petitioner and respondent No. 1 are husband and wife and respondent Nos. 2 and 3 are their children. The learned Magistrate reached further conclusion on the basis of the evidence that the petitioner without their being any sufficient cause and excuse, failed to maintain his wife and children. The learned Magistrate granted maintenance @ ₹ 375/- per month for respondent No. 1, ₹ 250/- per month for respondent No. 2 and ₹ 200/- per month for respondent No. 3.

5. Feeling aggrieved thereby, the Revision was carried by the petitioner in the year 2001. The said Revision was registered as Criminal Revision No. 229/2001. When

the proceedings were initiated by the petitioner, it was the duty of the petitioner to take necessary steps to serve the respondents in the said proceedings. It appears that the present petitioner failed to take any steps for service of the said Revision upon the respondents. Therefore, the learned Sessions Judge dismissed the Revision on 13/02/2002.

6. From the perusal of the petition, it is clear that no cogent reason is supplemented even in the present petition as to why the petitioner was unable to take necessary steps.

7. Further, remanding the matter will be a futile exercise. The respondents are fighting for their just right of maintenance. It appears that though this petition is admitted, no stay was granted in favour of the petitioner, thereby the petitioner is under obligation to pay the maintenance amount as directed. The remand will be a futile exercise in view of the fact that the petitioner is unable to give any sufficient and cogent reason as to what prevented him from taking steps for serving the respondents in the Revision.

8. Hence, the present Writ Petition is dismissed.

[V.M.DESHPANDE, J.]

KNP/Crim. W.P. 486.2002 - [J]

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