

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

CRIMINAL WRIT PETITION NO. 795 OF 2014

Ataulla Rahematulla Chaudhary,
age 48 years, occ. Labour,
R/o Maheboob Subhani Galli,
Near Balaji Mandir, Latur,
Tq. and Dist. Latur

...Applicant

VERSUS

Faiz s/o Ataulla Chaudhari,
age 8 years, occ. Education,
U/g of maternal Grandfather
Sayed Mazhar s/o Nazhar Hasan,
age 60 years, occ. Labour,
R/o Gauspura, Latur,
Tq. and Dist. Latur

...Respondent

.....
Shri Qureshi Shaikhulal Abdul Gafar, advocate for petitioner
Shri R.B.Deshmukh, advocate for respondent sole
.....

CORAM : V.M.DESHPANDE, J.

DATED : 8th January, 2015

ORAL JUDGMENT : -

1] Rule. Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

2] The present Writ Petition is filed by Ataulla Rahematulla Chaudhary, since he is aggrieved by the judgment

and order, dated 11.12.2013, passed by the learned Sessions Judge, Latur in Criminal Revision Application No. 77 of 2013, by which the learned Revisional Court allowed the Revision filed on behalf of Faiz, minor son of the present petitioner and granted maintenance at the rate of Rs.1,500/- per month.

3] At the out set, it is to be mentioned that before the courts below as well as before this court, the learned counsel for the petitioner has fairly made a statement that Ataulla is ready to maintain his son Faiz and he is not disputing his liability to maintain his son. He has raised the dispute only in respect of the quantum of maintenance.

4] According to the petitioner, in view of the recitals of Kulanama in between him and the mother of Faiz, the present petitioner has agreed to pay maintenance at the rate of Rs.500/- per month to son Faiz and he is paying the same regularly. According to him, the maintenance granted in favour of Faiz and against the present petitioner at the rate of Rs.1,500/- per month is excessive.

5] After hearing the parties to the petition and after perusal of the record, it is clear that there is no illegality and/or perversity in the order passed by the learned Revisional Court. It is to be noted that though the learned Magistrate rejected the

claim of maintenance filed by the son Faiz, he has specifically observed in paragraph 10 of his judgment that in fact the petitioner indirectly has admitted that he is having the Hardware shop. The present petitioner did not challenge the said finding in the Revision filed by the minor and thus now it is not open for the present petitioner to state that he is only employee of the said Hardware shop. Further, in his evidence he has not stated that he is working as an employee in the said Hardware shop. Therefore, no exception can be taken out to the finding recorded by the Revisional Court that he is the owner of said Hardware shop.

6] It is to be noted that the learned counsel for the petitioner has pointed out that the certificate under the Bombay Shops and Establishment Act, 1948 shows that owner is one Sibak Rahematulla Choudhary. It is admitted that Sibak Rahematulla Choudhary is real brother of the present petitioner. There is nothing on record to show that it is a partnership firm. In that view of the matter, no exception can be taken out to the judgment and order passed by the Revisional court. Writ Petition is dismissed. Rule discharged.

[V.M.DESHPANDE, J.]