

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

CRIMINAL WRIT PETITION NO. 73 OF 2003

Dagdu S/o Vishwanath Mane

Age : 58 Yrs., Occ. Labour,

R/o : Behind Sidheshwar

General Store, Near Water

Tank, Tadiwala Road,

Mahatma Phule Wasahat,

Pune – 1.

.... PETITIONER

V E R S U S

Sow.Chagabai W/o Dagdu Mane

Age : 48 Yrs., Occ. Household,

R/o : Birwali, at present at

Chincholi-Kajale, Tq. Ausa,

Dist. Latur.

.... RESPONDENT

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Mr. R.T.Nagargoje, Advocate for Petitioner.

Mr. R.K.Ashtekar, Advocate for Respondent.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 16th FEBRUARY, 2015

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ORAL JUDGMENT :

1. Heard Mr. R.T.Nagargoje, the learned counsel for the petitioner and Mr. R.K.Ashtekar, the learned counsel for the respondent.

2. The present Writ Petition takes exception to the order dated 17/12/2002 passed by the learned 1st Ad-hoc Additional Sessions Judge, Latur in Criminal Revision No. 54/2002, whereby the learned revisional Court dismissed the Revision filed on behalf of the present petitioner and thereby confirmed the order of maintenance granted by the learned Judicial Magistrate First Class, Ausa dated 24/04/2002 in Misc. Application No. 106/1999 granting maintenance of ₹ 500/- per month to the wife.

3. There is no dispute about the relationship between the petitioner and the respondent as husband and wife. Their relations are still subsisting.

4. Since the wife was neglected willfully by the husband, she was required to approach to the Judicial

Magistrate First Class, Ausa by filing application bearing Misc. Application No. 106/1999 u/s 125 of the Code of Criminal Procedure. The said application was contested by the husband. However, on the touchstone of the pleadings and the available evidence on record, the learned Magistrate reached to the conclusion that it is the husband who has willfully neglected to maintain his wife and he is having sufficient means and source of income not only to maintain himself but also his wife. The learned Magistrate allowed the said proceedings and granted maintenance to the wife.

5. Being dis-satisfied with such verdict, the husband preferred Revision before the revisional Court bearing Criminal Revision No. 54/2002. The learned revisional Court dismissed the Revision and confirmed the order passed by the learned Magistrate.

6. I have gone through the impugned orders with the assistance of the learned counsel for the parties.

7. The husband is duty bound to maintain his wife. The husband can not shirk his responsibility to maintain his

wife. The wife is dis-entitled only if she, on her own without any excuse, deserted the company of her husband. Both the Courts below concurrently recorded findings that it is the husband who has neglected the wife and the wife is not at fault at all. No perversity is shown by the learned counsel for the petitioner. Further, the impugned orders show that there is no error apparent on the face of record warranting this Court to exercise extra ordinary writ jurisdiction.

8. There is no merit in the Writ Petition. Hence, the present Writ Petition is dismissed.

[V.M.DESHPANDE, J.]

KNP/Cr. W.P. 73.2003 - [J]