

FARAD CONTINUATION SHEET NO.

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

CRIMINAL WRIT PETITION NO. 814 OF 2012**[Rajubai Motya @ Motiram Gavit vs Motiram Maulya Gavit and ors.]**

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or
directions and
Registrar's orders

Court's or Judge's orders

Shri J.R.Shah, advocate for the petitioner
Shri R.S.Shinde, advocate h/f
Shri A.G.Magre, advocate for respondent no.1
Shri V.D.Godbharle, A.P.P. for respondent no.2

.....

CORAM : V.M.DESHPANDE, J.**DATED : 10th March, 2015****PER COURT :-**

- 1] Rule. Rule is made returnable forthwith.
Heard finally with the consent of the parties.
- 2] Heard Shri J.R.Shah, learned counsel for the petitioner, Shri R.S.Shinde, advocate holding for Shri A.G.Magre, learned counsel for respondent no.1 and Shri V.D.Godbharle, learned Additional Public Prosecutor for respondent no.2.
- 3] The present petitioner approached to the court of learned Judicial Magistrate, First Class, Nawapur

by moving an application under Section 125 of the Code of Criminal Procedure for maintenance. The said application was registered as Criminal Miscellaneous Application No. 41 of 2006. The application was contested by respondent no.1 primarily on the ground that the petitioner is not his wife and there is nothing on record to show that at any point of time the relation as husband and wife did exist in between them.

4] In spite of the fact that the specific plea of marriage was raised before the learned trial Magistrate, the Magistrate did not frame any issue in that behalf. Learned Magistrate vide judgment and order, dated 6.3.2010 partly allowed the application filed on behalf of the petitioner and directed respondent no.1 to pay maintenance at the rate of Rs.750/- per month.

5] Being dissatisfied by such order, Criminal Revision No. 15 of 2010 was filed by the respondent/husband.

The petitioner/wife was also dissatisfied with the quantum of maintenance and she filed Criminal Revision No. 12 of 2010 for enhancement of the maintenance amount.

6] The Additional Sessions Judge simultaneously heard both the two Revision Applications and decided by the common judgment, dated 25.1.2012.

7] Learned Revisional court in view of the specific plea about the marriage has formulated a point, as to whether even prima facie the petitioner has proved that she is legally married wife of respondent no.1 Motiram.

8] With the assistance of both the learned counsel, I have gone through the impugned judgments. The learned Revisional court has considered and evaluated the evidence of the petitioner Rajubai in respect of the marriage. The learned Revisional court has, in my view, has correctly reached to the conclusion that the evidence put forth by the present petitioner about her marriage is wholly insufficient to reach to the conclusion that she is the wife of respondent no.1 Motiram.

The learned Revisional court, therefore, recorded a finding that since the petitioner has failed to discharge the burden raised on her about proof of factum of marriage and allowed the Revision filed on behalf of present respondent no.1 and dismissed the Revision filed on behalf of the petitioner for

enhancement.

9] After going through the impugned judgment, the reasons supplemented by the Revisional court are in consonance with the evidence brought on record, warranting no interference in the extraordinary writ jurisdiction, in view of the fact that the petitioner has failed to demonstrate any error apparent on the face of record.

10] Hence, Writ Petition is dismissed. Rule discharged.

[V.M.DESHPANDE, J.]

dbm/crwp814.12