

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Writ Petition No.837 Of 2012.

Shaligram Namdeo Patil :: **Petitioner.**

Versus

The State of Maharashtra & Ors. :: **Respondents.**

Hirabai w/o Shaligram Patil :: Respondent No.2.

Appearance ==>

Mr. S.R. Dheple, Advocate for the Petitioner.

Mr. V.P. Kadam, Additional Public Prosecutor for the State of Maha.

CORAM : V.M. DESHPANDE, J.

DATE : 14th JANUARY, 2015.

Per Court :-

Heard the learned counsel for the petitioner – husband. Though Respondent No.2 – wife is served, there is no appearance on her behalf. I have also heard Mr. Kadam learned Additional Public Prosecutor.

[2] Undisputedly, Respondent No.2 is the wife of petitioner. Maintenance proceedings were initiated on her behalf against the present petitioner. Initially, in the year 1995, maintenance allowance @ Rs.250/- per month was granted in her favour, which was enhanced @ Rs.750/- per month.

[3] The petitioner – husband has filed application before the learned Magistrate under Section 127 of the Code of Criminal Procedure for cancellation of maintenance allowance granted in favour of Respondent No.2 on the ground that Respondent No.2 is serving as “Anganwadi Sevika” and she is getting honorarium. Said application was registered as Criminal Misc. Application No.24/08. Said application was contested by the wife. The learned Judicial Magistrate, F.C., Shahada vide his Judgment and Order dated 14th October, 2009 was pleased to dismiss the Application filed on behalf of the petitioner under Section 127 of the Code of Criminal Procedure.

[4] Feeling aggrieved thereby, the petitioner approached before the Sessions Court, Shahada. Said Criminal Revision Application was registered as Criminal Revision Application No.6/10. The learned Additional Sessions Judge, Shahada vide his judgment dated 2nd July, 2012 confirmed the order passed by the Magistrate and dismissed the Criminal Revision Application. It is against this concurrent findings, present Writ Petition is filed.

[5] Scope of Writ Petition under Article 227 of Constitution of India is limited. The High Court while exercising such powers under writ jurisdiction has to see whether there is error apparent on the face of record. After hearing Mr. S.R. Dheple, learned counsel for the petitioner, it is clear that, none of the order suffers from any illegality or any irregularity. There is no error apparent on the basis of the record.

[6] Further the learned Additional Sessions Judge has rightly pointed out in his order that wife is getting maintenance @ Rs.750/- per month and her honorarium is only Rs.900/- per month, which according to the learned Sessions Judge is insufficient for maintaining her in today's

world. The learned Sessions Judge has also considered the fact that the petitioner is agriculturist and it is found that he is taking cash crops like cotton and possess sufficient means to maintain his wife. Merely because the wife is getting honorarium that does not entitle husband to file application for cancellation of maintenance especially when such honorarium is meager one. Further the wife is entitled to have that living standard in which her husband is living. Totality of the circumstances which are brought on the record and which are considered by the court below, I do not see any reason to exercise my extra ordinary writ jurisdiction. Hence, Writ Petition is dismissed summarily.

(V.M. DESHPANDE, J.)