

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

CRIMINAL WRIT PETITION NO. 1140 OF 2014

Pandit s/o Laxmanrao Shelke,
age 41 years, occ. Agriculuture and labour,
R/o Indalkar-Wadi, Tq.& Dist.Jalna ...Petitioner

VERSUS

- 1] Meerabai w/o Pandit, Shelke,
age 38 years, occ.Labour,
R/o Ramwadi,
Tq. And Dist. Aurangabad,
- 2] Neeta d/o Pandit Shelke,
age 10 years, occ. Education,
R/o as above
Under the guardianship of mother
Meerabai w/o Pandit Shelke,
i.e. the respondent no.1.
- 3] Sachin s/o Pandit Shelke,
age 12 years, occ. Education,
R/o Indalkar-Wadi,
Tq. And Dist. Jalna,
Under the guardianship of father
Pandit s/o Laxmanrao Shelke,
i.e. the petitioner ...Respondents

.....
Shri S.J.Salunke, advocate for petitioner
Shri K.F.Shingare, advocate for respondent nos. 1 and 2
Name of respondent no.3 deleted as per court's order, dated 18.2.2015
.....

CORAM : V.M.DESHPANDE, J.

DATED : 18th February, 2015

ORAL JUDGMENT : -

1] Rule. Rule is made returnable forthwith. With the consent of the learned counsel for the parties heard finally.

2] I have heard Shri S.J.Salunke, learned counsel for the petitioner and Shri K.F.Shingare, learned counsel for respondent nos. 1 and 2.

At the beginning itself, the learned counsel for the petitioner submits that he wants to delete name of respondent no.3 Sachin who is residing with him. Permission granted. The name of respondent no.3 be deleted from the array of the respondents.

Parties herein after will be referred to as 'the husband' and 'the wife' respectively.

3] An application was moved by the wife along with her daughter and son in the court of Judicial Magistrate, First Class, Aurangabad vide Criminal Case No. 1451 of 2011 and claimed monthly maintenance from the husband of Rs.4,500/-. The said application was contested by the husband. The parties entered in to the witness box.

4] On appreciation of the evidence, learned trial court found that without there being any reason or for sufficient cause, the wife and daughter were neglected by the husband. The learned Magistrate recorded a finding that the husband is having sufficient means to maintain himself, his son Sachin who is residing with him and also wife and daughter, and therefore, passed an order on 25.4.2013, by which the application was partly allowed and a direction was given to the husband to pay maintenance at the rate of Rs.2,000/- per month from the date of the application to the wife and daughter.

5] The said verdict was questioned in Criminal Revision No. 135 of 2013 by the husband. The learned Revisional Court, on appreciation of the pleadings and the evidence brought on record, reached to the conclusion vide judgment, dated 21.1.2014 that the reasonings supplemented by the learned Magistrate in allowing the application under Section 125 of the Code of Criminal Procedure are just and reasonable. Further, on reappraisal of the evidence, the learned Revisional Court found that there is no error or perversity, and hence, dismissed the Revision.

6] Thus, a concurrent findings of fact are questioned before this court in Writ Petition under Article 227 of the Constitution of India to invoke the extra ordinary writ jurisdiction.

Under Article 227 of the Constitution of India, it is incumbent upon the petitioner to point out that there is an error apparent on the face of record.

7] With the assistance of the learned counsel for the parties, I have gone through both the judgments of the courts below. Learned counsel for the petitioner was unable to point out any error apparent on the face of record.

8] In that view of the matter, I see no reason to upset the well reasoned order, which recorded concurrent findings in favour of wife and daughter. Hence, present Criminal Writ Petition is dismissed. Rule discharged.

[V.M.DESHPANDE, J.]

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