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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Cri. WP No. 208 of 2015
Ashok v. Sau Pushpa

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

Court's or Judge's orders.

Mr A. S. Moon, Advocate for petitioner
None appears for respondent

CORAM : V. M. DESHPANDE, J

DATED : 22nd September 2015

1. Heard Mr A. S. Moon, learned counsel for petitioner. Learned counsel for respondent is absent.

2. Learned Judicial Magistrate, FC, Wani on 20th July 2012 passed an order of maintenance in favour of respondent-wife. By the said order, the petitioner herein was directed to pay maintenance of Rs. 5000/- per month to the respondent. The said order granting maintenance was questioned by the petitioner by filing criminal revision before the Sessions Judge, Kelapur. Learned Additional Sessions Judge, Kelapur on 19th September 2014 dismissed the said revision. Hence, the present writ petition is filed against the concurrent findings of the courts below.

3. The main contention on the part of the petitioner to assail the orders impugned is that the petitioner is not the husband of respondent. In fact,

that was the only plea that was raised by the petitioner before both the Courts.

4. The respondent was required to file an application under Section 125 Cr. P. C. The said application was filed on her behalf on 8.6.2010. The proceedings were registered as Misc. Criminal Application No. 23 of 2010. Necessary pleadings about the marriage were set out in the application.

The application was contested mainly on the ground that the respondent (original applicant) is not legally married wife of the petitioner.

5. Both the parties, in order to substantiate their rival claim, entered into witness box and adduced the evidence. The contention of the learned counsel for petitioner that respondent is not the wife of petitioner, cannot be accepted and the said plea has to be rejected.

6. During the pendency of proceedings before learned trial Magistrate, certain documents were filed on record by respondent-wife. Those documents were duly exhibited and those documents are - Identity Card (exhibit 22) of respondent-wife; Identity Card of her daughter (exhibit 23); Ration Card (exhibit 25); Income Certificate (exhibit 26) and Nationality & Domicile Certificates of her son (exhibits 27 and 28).

Petitioner, when was under cross-examination on behalf of respondent-wife, has admitted that he was aware of the existence of the aforesaid documents. In spite of that, no steps were

taken by the petitioner to obtain necessary orders about the nullity of those documents.

7. Further, the evidence of Hussain Kanake and Bharat Khaire shows that they were witness to the marriage ceremony between the petitioner and the respondent which was performed as per Buddhist rites and rituals. Their evidence remains unshattered during their cross-examination.

8. In view of the above, it is crystal clear that the respondent was duly married with the petitioner and no fault can be located in the orders impugned in that behalf.

9. It is to be noted that though the petitioner has denied the paternity of the daughter and son, no steps were taken by him to substantiate his plea. The petitioner was working in the Forest Department and he was Chief Accountant. Even according to him, his salary was more than Rs. 23,000/-. In that view of the matter, order granting maintenance of Rs. 5000/- to the respondent-wife is just and proper.

10. Hence, writ petition is dismissed. No costs.

JUDGE

joshi