

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

CRIMINAL WRIT PETITION NO. 11 OF 2006

Kalimulla s/o Samiulla Shaikh,
Age : 33 years, Occupation : Nil,
R/o Balepir Galli, Latur,
District Latur.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
- 2 Tahaseen Begum w/o Kalimulla Shaikh,
Age : 25 years, Occupation : Household,
R/o Nath Nagar, Latur,
District Latur.
- 3 Ruman d/o Ralimulla Shaikh,
Age : 3 years, minor u/g of
Respondent No.2. R/o as above.

...RESPONDENTS

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None for Petitioner.

APP for Respondent No.1/ State : Shri S.G.Karlekar.
Advocate for Respondents 2 and 3 : Shri S S Choudhari.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 14th June, 2016

Oral Judgment:

- 1 When this matter was called out on 07.06.2016, none appeared for the Petitioner. The matter was adjourned for this date. Even today, none appears for the Petitioner.

2 The Petitioner has challenged the judgment and order dated 01.11.2004 passed by the learned 2nd Judicial Magistrate First Class, Latur by which the application filed by Respondent Nos.2 and 3 under Section 125 of the Code of Criminal Procedure has been allowed. The Petitioner is directed to pay Rs.700/- per month to Respondent No.2 and Rs.300/- per month to Respondent No.3.

3 The Petitioner is also aggrieved by the judgment and order dated 28.11.2005 delivered by the learned Adhoc Additional Sessions Judge, Latur vide which Criminal Revision No.88/2005 filed by the Petitioner has been rejected.

4 Shri Chaudhari, the learned Advocate, submits on behalf of Respondent Nos.2 and 3 that revisional jurisdiction of this Court is extremely limited. The same would be further limited in the face of concurrent judgments of the lower Courts. The findings on facts arrived at by the Trial Court and sustained by the Revisional Court cannot be interfered with by this Court only because a second view is possible.

5 He further submits that oral and documentary evidence adduced by the parties was properly considered by the learned Trial Court.

The business activity of the Petitioner was established before the Trial Court. Respondent No.2 was a destitute lady and has no income to support herself and Respondent No.3. He, therefore, submits that after considering the oral and documentary evidence, the Trial Court concluded that the amount of Rs.700/- per month deserves to be paid as maintenance allowance to Respondent No.2 and Rs.300/- in favour of Respondent No.3.

6 I have considered the submissions of the learned Advocate for Respondent Nos.2 and 3. I have gone through the impugned judgments and the contentions/ pleadings of the Petitioner.

7 It was brought on record before the Trial Court that Respondent No.2/ wife was driven out of the marital home on the ground that she failed to satisfy the demand of Rs.50,000/- made by the Petitioner and his parents for starting a business of Audio Cassette shop and for travelling to Saudi Arabia. The evidence brought on record has been discussed by the Trial Court in paragraphs 7 to 10 of its judgment. I find that the Petitioner had failed to lead any evidence before the Trial Court despite sufficient opportunities granted to him. The evidence of Respondent Nos.2 and 3 went unchallenged. There was no rebuttal to the evidence of Respondent Nos.2 and 3/ Applicants. The business of the

Petitioner was proved before the Trial Court. Based on such evidence, it was concluded that the Petitioner is required to pay maintenance allowance to Respondent Nos.2 and 3.

8 It cannot be ignored that the maintenance allowance of Rs.700/- and Rs.300/- per month in favour of Respondent Nos.2 and 3 respectively, was granted in 2005. This Court had declined interim relief to the Petitioner. The said amount is a paltry amount and I, therefore, do not see any reason to cause any interference even on the proportionality of the maintenance allowance granted by the Courts below.

9 Since the impugned judgments are neither perverse nor erroneous, I do not find any reason to interfere with the impugned judgments. This Criminal Writ Petition being devoid of merit is, therefore, dismissed. Rule is discharged.