

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 329 OF 2015

Pralhad s/o Raghunath Waghmare
Age 48 years, Occ. Service
R/o. Chilekhanwadi, Tal. Newasa
District Ahmednagar

...Petitioner

versus

1. Sou. Nanda w/o Pralhad Waghmare
Age 43 years, Occ. Service
2. Sagar s/o Pralhad Waghmare
Age 16 years, Occ. Student
3. Pranjali d/o Pralhad Waghmare
@ Pranjali w/o Balasaheb Pathare
Age 23 years, Occ. Housewife

All R/o. Chilekhanwadi, Tq. Newasa
District Ahmednagar

...Respondents

...
Advocate for Petitioner : Mr. Deshmukh H.D.
Advocate for Respondents 1 and 3: Mr. D.A. Naik

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CORAM : V. K. JADHAV, J.
DATED : 30th AUGUST, 2016

ORAL JUDGMENT:-

1. Rule. Rule returnable forthwith. By consent, heard finally at admission stage.
2. Being aggrieved by the judgment and order dated 20.01.2015 passed by the Additional Sessions Judge, Newasa in criminal

Revision application No. 29 of 2014, the original respondent husband preferred present writ petition.

3. Brief facts giving rise to the present writ petition are as follows:-

On account of certain differences and matrimonial disputes between the parties, respondent No.1 wife alongwith her children i.e. respondent Nos. 2 and 3 filed Misc. application No. 9 of 2010 before the J.M.F.C. Newasa for grant of maintenance under Section 125 of Cr.P.C. The learned Magistrate, Newasa by its judgment and order dated 13.1.2011 partly allowed the said Misc. Application No. 9 of 2010 and directed the respondent husband to pay Rs.1000/- p.m. to respondent wife and Rs.1500/- each to respondent Nos. 2 and 3. Being aggrieved by the same, the petitioner husband has preferred Criminal Revision application before the Sessions Court at Newasa and the learned Additional Sessions Judge, Newasa by its impugned order dated 20.1.2015 partly allowed the said criminal revision application and thereby reduced the amount of maintenance granted by the trial court to respondent No.1 wife from Rs.1000/- to Rs.800/- and confirmed the order of grant of maintenance to respondent Nos. 2 and 3 at the rate of Rs.1500/- p.m. each. Being aggrieved to the extent of maintenance granted to respondent-wife, the petitioner husband has preferred this writ petition.

4. Learned counsel for the petitioner submits that during pendency of criminal revision application before the Additional Sessions Judge Newasa, original applicant No.2 Pranjali got married and she is thus cohabiting with her husband. The petitioner husband is not liable to pay maintenance to his married daughter and it is for her husband to take care of her. So far as grant of maintenance to original applicant No.3-son Sagar is concerned, the petitioner husband will not press present writ petition for grant of maintenance to his son. Respondent No.1 wife is serving as Nurse in the Health department and getting monthly salary. The petitioner husband is also serving as teacher in private school on monthly salary. After deductions, the petitioner husband is getting very less salary and since respondent No.1 wife is getting salary, she is able to maintain herself, and thus, the application seeking maintenance is liable to be rejected in toto. Even the Additional Sessions Judge in para 8 of the judgment has observed that respondent No.1 wife is getting more monthly salary compared to the salary of petitioner husband. Learned counsel submits that the learned Additional Sessions Judge in that view of the matter, should have rejected the application to the extent of seeking maintenance by respondent No.1 wife.

5. Learned counsel for respondent wife submits that during

pendency of criminal revision application before the Additional Sessions Judge, Newasa, original applicant No.2 Pranjali got married and now she is cohabiting with her husband. Respondent wife, after all deductions, is getting less salary compared to the salary of the petitioner husband. Respondent No.1 wife is serving as *Arogya sevika* whereas the petitioner husband is serving as a teacher and he is confirmed employee. Learned Additional Sessions Judge reduced the amount of maintenance from Rs.1000/- to Rs.800/- and in the given circumstances the same appears to be just and reasonable. No interference is required in the impugned judgment and order.

6. So far as respondent No.3 Pranjali is concerned, she got married during pendency of criminal revision application before the Sessions Court and as such she is not entitled for maintenance from the petitioner. The petitioner husband has not challenged the grant of maintenance to his son Sagar. It appears from the evidence and observations made by the learned Additional Sessions Judge that the petitioner husband after deductions, is getting Rs.8273/- as monthly salary and respondent No.1 wife is also getting the same income or even more than that. It also appears from the observations made by the learned Judge of the trial court that the petitioner husband has not produced any salary certificate before the trial court so as to

substantiate his contention that he is getting less salary after deduction. The trial court has observed that even though certain deductions are there, those deductions are not permanent in nature and in due course the petitioner husband may get the salary as prescribed for the teachers serving in private schools. However, it appears that learned Additional Sessions Judge has considered the income of respondent No.1 wife and accordingly reduced the quantum of compensation from Rs.1000/- to Rs.800/-. I do not find any fault in the said judgment and order passed by the learned Additional Sessions Judge so far as grant of maintenance to respondent wife is concerned. Original applicant No.2 Pranjali is certainly not entitled for any maintenance, as during pendency of proceeding before learned Additional Sessions Judge, she got married. Thus, with this modification, writ petition can be disposed of. Hence, I proceed to pass the following order:-

O R D E R

- I. Writ petition is hereby partly allowed.
- II. The order dated 20.01.2015 passed by the Additional Sessions Judge, Newasa in criminal revision application No. 29 of 2014 is modified in the following manner:-

“The application for grant of maintenance to applicant

No.2 Pranjali, d/o Pralhad Waghmare is hereby rejected.”

- III. Rest of the judgment and order passed by the Additional Sessions Judge, Newasa dated 20.1.2015 in criminal revision application No. 29 of 2014 stands confirmed.
- IV. Writ petition is accordingly disposed of. Rule is made absolute in the above terms.

(V. K. JADHAV, J.)

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