

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

CRIMINAL APPLICATION NO. 2066 OF 2015

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PRAKASH SAHEBRAO MAIRAL & OTHERS.

VERSUS

VIMALBAI PRAKASH MAIRAL & ANOTHER.

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Advocate for Applicant : Mr R J Nirmal

Advocate for Respondents : Mr S S Naik

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CORAM : V.K. JADHAV, J.

Dated: February 03, 2016

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PER COURT :-

1. The learned Judicial Magistrate First Class, Kannad has rejected the application for interim maintenance filed by the respondents herein, by order dated 27.8.2014 passed below Exh.3 in Criminal Misc. Application No.98/2014. Aggrieved by the same, the respondents-wife preferred Criminal Appeal No.86 of 2014 before the Sessions Court, Aurangabad, and the learned Additional Sessions Judge-4, Aurangabad, by impugned order dated 19.3.2014 allowed the appeal and thereby directed the petitioner husband to pay interim maintenance @ Rs.4,000/- (Rs. Four Thousand) p.m. to respondent no.1 wife and Rs.3,000/- (Rs. Three Thousand) p.m. to respondent no.2 – Son. Hence, this writ petition.

2. Learned counsel for the petitioners submits that, the amount of interim maintenance is excessive. Petitioner No.1-

husband has no sufficient means to pay the separate maintenance. The counsel submits that, the learned Additional Sessions Judge, Aurangabad has not considered the same and, even though, respondent-wife has source of earning, granted maintenance @ Rs.4,000/- p.m. to her. Learned counsel submits that, the Petitioner No.1-husband has no objection so far as interim maintenance granted to respondent no.2-Son is concerned.

3. Learned counsel for respondents submits that, respondent no.1-wife is presently jobless. She was working as A.N.S (Nurse) on contractual basis and, since the contract period is now over, she has rendered jobless. Learned counsel submits that, after considering the evidence on record, the learned Additional Sessions Judge-4, Aurangabad, has rightly granted maintenance. Prima facie, it appears from the documents produced on record that there is agricultural land in the name of father of the petitioner-husband. Moreover, the petitioner No.1-husband himself has filed a certificate before this Court showing that the petitioner is working as xerox operator and getting some monthly income. He is getting meager amount of Rs.3,500/- by working as xerox operator. It also appears that, so far as agricultural land is concerned, the same is now given to one

another person on batai basis.

4. In response to the order passed by this Court dated 13.1.2016, the petitioner-husband has deposited the amount of Rs.1,10,000/- (Rs. One Lac Ten Thousand), before this Court. The Respondent No.1-wife is permitted to withdraw the same.

5. Primafacie, it appears that, so far as grant of maintenance to respondent No.1-wife is concerned, that is excessive to some extent and the same needs to be modified. In view of this, following order is passed.

O R D E R

1. Criminal Application is partly allowed.
2. The impugned order passed by the learned Additional Sessions Judge-4, Aurangabad dated 19.3.2015 in Criminal Appeal No.86/2014 is modified to the extent of grant of maintenance to Respondent no.1-Wife @ Rs.3,000/-(Rs. Three Thousand only) instead of Rs.4,000/- (Rs.Four Thousand), per month. Rest of the Order stands confirmed.
3. Criminal Application stands disposed of.

(V.K. JADHAV, J.)

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aaa/-