

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.523 OF 2016

Sachin S/o Yohan Ohol,
Age-38 years, Occu-Nil,
R/o Plot No.44, Mohini Nagar,
Kedgaon Devi, Ahmednagar

PETITIONER

VERSUS

1. Manisha Sachin Ohol,
Age-31 years, Occu-Household,
R/o C/o Yogesh Vishnu Mirpagar,
M.E.Colony, Wadarwadi Road,
Bhingar, Tq. and Dist.Ahmednagar,

2. Riya d/o Sachin Ohol,
Age-10 years, Occu-Education,
R/o As above and u/g of respondent No.1.

3. Abhishek s/o Sachin Ohol,
Age-8 years, Occu-Education,
R/o As above and u/g of respondent No.1.

RESPONDENTS

Mr.S.T.Veer, Advocate for the petitioner.
Mr.S.V.Mundhe, Advocate for the respondents.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 21/06/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. This Court, by order dated 22/04/2016, had directed the

petitioner to deposit an amount of Rs.80,000/- within 2 (two) weeks considering the fact that the petitioner was in arrears. He was also directed to pay Rs.2,000/- per month to the respondents. The petitioner has not complied with the said order despite an opportunity having been granted on 10/06/2016. He, however, has enjoyed the protection granted to him which was conditional.

3. The petitioner has strenuously criticized the judgment of the learned Magistrate as well as the judgment of the Revisional Court, impugned in this petition. It is stated that these concurrent findings are perverse.

4. It is submitted that the petitioner has a job which fetches him Rs.3,000/- per month. Grant of maintenance allowance of Rs.2,500/- in sum total for the 3 respondents is beyond his capacity to pay. It is stated that the petitioner has recently lost his job.

5. The petitioner relies upon the judgment of the Calcutta High Court in the matter of Amit Kumar Das Vs. Basanti Das (Giri) and another, 2011 Cri.L.J. 1187 to contend that a Magistrate is bound to record reasons justifying his decision to award maintenance from the date of the application under Section 125 of the Cr.P.C. Absence of

reasons would render the judgment unsustainable.

6. Mr.Mundhe, learned Advocate has appeared on behalf of all the respondents. He points out that the evidence on record coupled with the salary slip of the petitioner would indicate the fact situation. The father of the applicant was an employee as an Engineer with the Maharashtra State Electricity Distribution Co.Ltd., and was earning Rs.25,000/- per month. He has subsequently retired.

7. He further points out from the evidence that respondent No.1 / wife was abused and ruthlessly beaten up. Considering the illtreatment, she had no option but to leave her marital home. It was proved by evidence that the petitioner was earning Rs.6,000/- per month. He, therefore, submits that in the face of a finding on facts, no interference is called for.

8. I have considered the submissions of the learned Advocates.

9. It is trite law that on the same facts, findings of the Lower Courts cannot be overturned merely because a second view can be taken. Unless the findings are perverse and erroneous, no interference is called for.

10. The reasons assigned by the learned Magistrate as well as the Revisional Court does not indicate any infirmity much less any perversity.

11. Considering the above, I do not find that the petitioner has made out a case calling for interference in the impugned judgment. This petition, being devoid of merit, is therefore dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)