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

CRIMINAL WRIT PETITION NO.81 OF 2004

Govind s/o Tulshiram Ghode,
Age: 55 years, Occ: Agri.,
R/o. Daule Wadgaon, Tq. Ashti,
Dist. Beed. ..PETITIONER

VERSUS

1. Chandrakala @ Parubai Govind
Ghode, age 46 years,
Occ: Business,
Residing c/o Yadav Ganpat
Labade, at Pokhardi,
Post Shendi,
Tal. And Dist. Ahmednagar.
2. The State of Maharashtra. ..RESPONDENTS

Mr V.D. Hon, Senior Advocate for petitioner;
Mr R.K. Temkar, Advocate for respondent No. 1
Mr R.V. Dasalkar, A.P.P. for respondent/State

CORAM : N.W. SAMBRE, J.

DATE : 30th August, 2016

ORDER :

Respondent Chandrakala, wife of the
petitioner, filed Criminal Misc. Application No.
452 of 2000 under the provisions of Section 125 of
the Code of Criminal Procedure for grant of

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maintenance. The said application came to be allowed by the judgment and order dated 8th January, 2003 passed by learned Judicial Magistrate, First Class (Court No.3), Ahmednagar, directing present petitioner to pay amount of Rs.1000/- per month towards maintenance w.e.f. 11th December, 2000 till date of remarriage or death, which occurs first.

2. Present petitioner being aggrieved thereby preferred revision being Criminal Revision Application No. 56 of 2003, so also Criminal Revision Application NO. 63 of 2003 by present respondent for enhancement. Both these revisions were heard by learned Additional Sessions Judge, Ahmednagar and dismissed the same by an order dated 22nd January, 2004. As such, present writ petition by the original non applicant questioning the order of maintenance.

3. Mr. Hon, learned Counsel for the petitioner would urge that the claim of the

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respondent-wife ought to have been rejected, in view of the fact that the divorce deed/dissolution deed was executed and was registered with the office of Sub Registrar, Ahmednagar on 21st March, 1979 in the back ground of marriage of the parties on 10th May, 1977. According to him, as per provisions of Hindu Law, a person have only one legally married wife and in view of the said divorce deed/dissolution deed, status of the respondent is that wife, who has no recognition or identity in law and as such, was not entitled to claim maintenance. He would then urge that up to 2004 pursuant to the order of interim maintenance, the petitioner has already deposited arrears and ready and willing to pay one time alimony.

4. In the above referred background, the order of maintenance passed by learned Magistrate and that of confirmed by learned revisional Court if perused, it is required to be noted that the law qua entitlement of such wife whose said status is under cloud is already adjudicated and looked into by this Court in the matter of **Kaushalyabai D.**

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Mule vs. Dinkar M. Mule, reported in **2001 (Supp.2) Bom.C.R. 583**, which is already referred to in the interim order passed by this Court on 22nd April, 2004. It is also worth to note here that in the alleged deed of dissolution of marriage, admittedly no provision for maintenance was made neither amount towards maintenance was paid in lump sum.

5. The order of maintenance as was passed by learned Magistrate is based on the evidence as was placed before learned Magistrate qua entitlement. The fact remains that in view of law laid down by the Principal Seat of Bombay High Court in the matter of **Kaushalyabai D. Mule** (supra), the issue as is raised, in my opinion, is already addressed to.

6. In this back ground, no case for interference, in the extraordinary writ jurisdiction, is made out. As such, writ petition fails and stands dismissed.

(N.W. SAMBRE, J.)