

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

CRIMINAL WRIT PETITION NO. 188 OF 2004

Balu s/o. Jagannath Nagargoje .. Petitioner

Versus

Smt. Shantabai Balu Nagargoje & Anr. .. Respondents

Mr.M.R. Khutwad h/f. Mr.A.N. Kakade, Advocate for the petitioner.

None for the respondents.

CORAM : Z.A. HAQ, J.

DATED : 21.11.2016

P.C. :-

. Heard Mr. M.R. Khutwad, Advocate h/f. Mr. A.N. Kakade, Advocate for the petitioner. None appears for the respondents.

02. The petitioner has challenged the judgment passed by the Sessions Court dismissing the Revision Application filed by him and maintaining the order passed by the learned Magistrate directing to pay maintenance to the respondents.

03. The judgment is challenged on the ground that the Sessions Court has not properly appreciated the fact that there was compromise between the petitioner and respondent No.1, the copy of which was placed on record

of Regular Civil Suit No.138 of 1996, which shows that 61 R land in Gat No.359 and 16 R land in Gat No.363 was given to respondent No.1 in lieu of maintenance. It is submitted that the above land having been given to respondent No.1, it cannot be said that she is not able to maintain herself and that she is entitled to claim maintenance from the petitioner. Other submission is that respondent No.1 is residing separately without any cause and reason and that the petitioner is ready and willing to maintain the respondents.

04. With the assistance of learned Advocate for the petitioner I have examined the record. The findings recorded by the subordinate Courts concurrently to the effect that respondent No.1 is unable to maintain herself cannot be faulted with. As far as compromise is concerned, it shows that 77 R land was given to respondent No.1 in lieu of past maintenance, for the period when she resided at her matrimonial house from 1993 till 1996. The compromise contains a clause that the petitioner would maintain respondent No.1 after the compromise and if the petitioner failed to maintain respondent No.1, she will be entitled to claim maintenance from the petitioner. The learned Sessions Judge has considered all these aspects in paragraph No.24 of the impugned judgment.

05. The details of property which the petitioner and his family was holding at the relevant time and the income that the petitioner and his family had from the agricultural lands are also considered by the learned Sessions Judge. The learned advocate for the petitioner has not been able to point out any illegality or perversity in the findings recorded by the subordinate Courts.

06. Respondent No.2 (daughter of the petitioner) was shown aged about two years in the cause title of the application, which was filed before the Magistrate in the year 1999. As none appears for the respondents, it is not known whether respondent No.2 is married or not. It is clarified that respondent No.2 would be entitled for maintenance as directed by the learned Magistrate till the date of her marriage.

. With the above observation, the writ petition is dismissed. In the circumstances, parties to bear their own costs.

[Z.A. HAQ, J.]