

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 531 OF 2005

Sekawat S/o Shaukat Tadvi Petitioner

VERSUS

Rehane Budhan Tadavi and another Respondents

Mr. A.M. Gholap, Advocate for the Respondents.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 10/06/2016

PER COURT :

1. On 07.06.2016, after the learned Advocate for the respondents was heard, this Court had passed the following order :-

1. None appears for the petitioner even at the second call.
2. Mr. Gholap, learned Advocate appearing on behalf of the respondents submits that the issue raised in the petition is as to whether a Muslim woman can claim maintenance u/s 125 of the Cr.P.C. or u/s 3 and 4 of the Muslim Women (Protection of Rights on Divorce) Act, 1986. He submits that this petition was filed upon being aggrieved by the order of the Revisional Court dated 30/12/2004 thereby rejecting the application for stay to the judgment of the Trial Court. This Court refused interim relief to the petitioner despite the challenge to the claim of maintenance u/s 125.
3. Mr. Gholap points out that in the light of no interim relief having been granted by this Court, the Criminal Revision Application No.314/2004 has been disposed of

by order dated 17/04/2006, which is evidenced by the case status of the District and Sessions Court, Jalgaon website.

4. Moreover, the Hon'ble Supreme Court in the matter of Shamima Farooqui Vs. Shahid Khan, AIR 2015 SC 2025 has finally concluded that a Muslim women can claim maintenance u/s 125 of the Cr.P.C. He, therefore, submits that on the factual matrix of this matter, this petition is rendered infructuous. On the point of Law, this petition would be squarely covered by the judgment of the Hon'ble Apex Court is the case of Shamima (supra).
5. Since none appears for the petitioner, stand over to 10/06/2016. If the petitioner does not remain present on the next date, I would consider this petition on its merits.

2. None appears for the petitioner even today.

3. I have gone through the Judgment of the Supreme Court in the case of Shamima Farooqui Vs. Shahid Khan, (supra) cited by Shri A. M. Gholap. The issue is therefore, no longer res-integra that a Muslim Woman/Divorce Woman can claim maintenance under Section 125 of the Code of Criminal Procedure.

4. Shri Gholap has placed on record a printout of the Criminal Revision Application No. 314 of 2004 filed by the petitioner herein,

obtained from the web site of the District and Sessions Court, Jalgaon. The said printout indicates that the Criminal Revision Application No. 314 of 2004 has been dismissed by order dated 17.04.2006. This petition was filed by the petitioner being aggrieved by the refusal of the Revisional Court to grant stay to the Judgment of the Trial Court.

5. Copy of said print out is taken on record and marked as Exhibit "X" for identification.

6. In the light of the above, I find that this petition is rendered infructuous and is, therefore, dismissed. Rule is discharged.

7. The amount of Rs.3500/- deposited by the petitioner in this Court vide order dated 14.12.2005 passed by this Court towards the litigation expenses, shall be withdrawn by the first respondent along with accrued interest.

(RAVINDRA V. GHUGE, J.)