

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

Criminal Writ Petition No. 413 of 2004

District : Jalgaon

Zakir Hussain Yousuf Khatik,
Age : 28 years,
Occupation : Service,
Resident of Beldar Galli,
opposite P.K. High School,
Dharangaon,
Taluka Erandol,
District Jalgaon.

.. Petitioner.

versus

1. The State of Maharashtra,
through Government Pleader,
High Court, Aurangabad.

2. Rijwanabano Shaikh Ayyub,
Age : 21 years,
Occupation : Household work,
Resident of c/o. Shaikh Ayyub
Sk. Mahboob,
Rahman Nagar, Behind Hans
Talkies, Chalisgaon,
District Jalgaon.

.. Respondents.

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Ms. A.N. Ansari, Advocate, for the petitioner.

*Mr. P.N. Kutti, Addl. Public Prosecutor, for
respondent no.1.*

*Ms. Fatima Kazi, Advocate, holding for
Mr. S.S. Kazi, Advocate, for respondent no.2.*

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CORAM : Z.A. HAQ, J.

DATE : 30TH NOVEMBER 2016

ORAL JUDGMENT :

Heard learned Advocates for the respective parties.

02. The petitioner has challenged the order passed by the Sessions Court dismissing the Revision Application filed by the petitioner and maintaining the order passed by the learned Magistrate under Section 3(1)(a) of the Muslim Women (Protection of Rights on Divorce) Act, 1986 by which the petitioner was directed to pay Rs. 10,000/- towards the costs of articles and Rs. 2,40,000/- towards reasonable and fair provision for future maintenance.

03. Ms. Ansari, learned Advocate for the petitioner, on instructions, has stated that the petitioner has deposited amount of about Rs. 50,000/- pursuant to the impugned judgment and the amount is withdrawn by the respondent no.02. It is further submitted that the respondent no.02 has re-married in 2008 which is not disputed by the learned Advocate for respondent no.02.

04. Considering the above facts, in my view, the judgment passed by the learned Magistrate is required to be modified in the following terms :-

(a) The directions given by the learned Magistrate to the petitioner to pay Rs. 10,000/- towards the costs of articles are maintained.

(b) The amount which the petitioner has deposited from time to time as per the impugned judgment shall be treated as payment towards reasonable and fair provision for maintenance of respondent no.02 till she re-married.

(c) The amount which the petitioner has deposited from time to time pursuant to the impugned judgment, if withdrawn by the respondent no.02, can be retained by her and the petitioner will not be entitled to seek refund of that amount. If amount is not yet withdrawn by the respondent no.02 and is lying in deposit before the Court, the same shall be given to the respondent no.02 along with interest, if any.

(d) The respondent no.02 will not be entitled for any further amount from the petitioner.

(e) The Writ Petition is disposed in the above terms. In the circumstances, parties to bear their own costs.

(Z.A. HAQ)
JUDGE

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