

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

CRIMINAL WRIT PETITION NO. 398 OF 2003

Sau. Sunita Ramesh Jadhav,
Age: 30 years, Occ: Household,
R/o. Wasangaon, Tq. & Dist. Latur.

...Petitioner

versus

1. Ramesh Dagadu Jadhav,
Age: 30 years, Occ: Business
and Agriculture, R/o. Om
Collections, Main Road,
Latur.

2. State of Maharashtra.

...Respondents

.....
Mr. S.P. Katneshwarkar, Advocate for petitioner
Mr. S.S. Choudhari, Advocate for respondent No.1
Mr. A.R. Kale, A.P.P. for respondent No. 2
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CORAM : N.W. SAMBRE, J.

DATE : 29th APRIL, 2016

ORAL ORDER :

The petitioner, who claims to be wife of respondent- Ramesh Dagadu Jadhav, moved an application under Section 125 of the Code of Criminal Procedure being Criminal Misc. Application No. 519 of 1998, seeking maintenance, which came to be rejected, by an order 07/04/2000 by learned Chief Judicial Magistrate, Latur, confirming the said order Criminal Revision No. 81 of 2000 vide order dated 15/02/2001 passed by learned Additional Sessions Judge, Latur. As such, present criminal writ petition for grant of

maintenance.

2. Having heard respective learned Counsel for some time, Mr. S.S. Choudhari, learned Counsel for respondent-Ramesh Dagadu Jadhav invites my attention to the verdict given by learned Civil Judge, Senior Division, Latur in Hindu Marriage Petition No. 123 of 2009, which was for declaration of marriage as null and void under Section 5(1) read with Section 11 of the Hindu Marriage Act, 1955. He would then submit that in the said order, categorical findings are recorded as regards the marriage of present petitioner with respondent and issue was answered in the negative after considering and evaluating the evidence on record. Mr. Choudhari, learned Counsel for the respondent would then invite attention of this Court to the order dated 14/03/2016 passed by learned Additional Sessions Judge, Latur in Criminal Revision No. 14 of 2014, preferred under Section 397 of the Code of Criminal Procedure against the order of issuance of process for the offence punishable under Sections 376, 493, 496 of the Indian Penal Code, passed by learned Judicial Magistrate, Latur, on 18/11/2013. He would submit that the said order is also not questioned.

3. Mr. Katneshwarkar, learned Counsel for the petitioner would submit that it is informed by his client that certain appeals are pending, however, for want of appropriate instructions, he is not in a

position to make statement as regards details of the proceedings, which are pending between the parties before the Court below.

4. Be that as it may, this Court must take note of the fact that the present proceedings are pending since 2003 before this Court. Apart from above, the fact remains that in a proceedings for declaration of marriage as null and void, already the Court upon appreciation of evidence, has recorded findings that the petitioner was never married to the respondent.

5. As such, in my opinion, no case for interference in extraordinary jurisdiction is made out.

6. It is clarified that in case if the verdict in appeal, if so preferred by the petitioner against the judgment passed by learned Civil Judge, Senior Division, Latur in H.M.P. No. 123 of 2009 on 18/12/2010 is reversed and if the findings are recorded that the petitioner was legally married to the respondent, it shall be open for the petitioner to revive her claim for maintenance.

7. With above observations, criminal writ petition stands disposed of.

[N.W. SAMBRE, J.]