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

CRIMINAL WRIT PETITION NO. 952 OF 2014

Shirish s/o Anandrao Dalvi,
Age: 45 years, Occu: Service,
R/o. Kelpimpalgaon, Tq. Ashti,
Dist. Beed

..PETITIONER

VERSUS

1. The State of Maharashtra,

2. Sow. Sharda w/o Shirish Dalvi,
Age: 38 years, Occu: Household,
R/o. Padolewadi, Par Galli,
Ahmednagar,
Tq. & Dist. Ahmednagar

..RESPONDENTS

Petitioner in person;
Mr A. R. Kale, Addl. Public Prosecutor for respondent No. 1;
Mr V. S. Bedre, Advocate for respondent No. 2

CORAM : N.W. SAMBRE, J.

DATE : 11th April, 2016

ORAL ORDER :

Heard petitioner Shirish Anandrao Dalvi in person.

2. Few facts as are necessary for deciding the present petition
could be narrated in a nutshell as under :-

The petitioner claims to be married to respondent no.2 Sharda
moved Criminal Misc. Application No.21 of 2002 under section 125 of

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the Code of Criminal Procedure claiming maintenance. In the said application, it is claimed that the marriage between the parties took place on 31st May, 1997. It is then narrated that the present petitioner is working as High School Teacher and is receiving salary from the grants disbursed by the Government. It is also brought on record that the petitioner owns certain agricultural property from which he is also getting some income and as such sought maintenance of Rs.1,500/- from the petitioner vide application dated 16th January, 2002.

3. The aforesaid contention was denied by the present petitioner and the learned Magistrate, by an order dated 30th November, 2011 awarded maintenance of Rs.1,300/- from the date of the order, i.e. 16th January, 2002 till 15th March, 2011 and Rs.5,000/- from 16th June, 2011 and Rs.1,500/- towards the expenses.

4. Feeling aggrieved thereby, the petitioner preferred Criminal Revision Application No.54 of 2012 before the learned Sessions Judge, Ahmednagar, which came to be dismissed with costs of Rs.2,000/- by an order dated 19th June, 2014. As such, present petition.

5. While ordering payment of maintenance, initially at the rate of Rs.1,300/- and thereafter at the rate of Rs.5,000/-, the learned Magistrate has taken into account the salary drawn by the petitioner as is reflected in paragraph 25 of his order. The learned Sessions

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Judge also considered the earning capacity of the petitioner and maintained the order passed by the learned Magistrate.

6. The present writ petition was filed by the petitioner on or about 20th August, 2014.

7. In the petition which was filed through lawyer, the petitioner has questioned the legality and validity of both the judgments and orders, i.e. passed by the learned Magistrate and the revisional court and also sought stay.

8. The matter was listed before this Court time and again and lastly, having noticed that the petitioner is trying to prolong the matter, this Court made it clear that this Court has not granted any stay in the matter and recovery of maintenance should proceed against him.

9. On 14th July, 2015, learned Counsel appearing on behalf of the petitioner sought discharge as the petitioner want to argue his matter in person, which prompted this Court to pass the following order :-

“Learned Counsel Shri Narwade submits that his client wants to argue the matter himself. He submits that in view of this circumstance he wants to withdraw his appearance and he may be discharged. The petitioner is present in Court and he has filed purshis in writing. In view of this circumstance, the

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Advocate is discharged. The petitioner wants time to prepare for the matter. By way of last chance, stand over to 30th July, 2015.”

10. While granting opportunity to prepare the matter, the Court ordered last chance, however, on 30th July, 2015, the petitioner appeared in person and sought time to file certain documents on record, which was granted by this Court and the matter was adjourned as per his convenience on 17th August, 2015.

11. Thereafter the matter was not moved before this Court, however, lastly when it was listed before the Court, the party in person remained absent on 2nd April, 2016, which has prompted this Court to post the matter on 11th April, 2016 for dismissal. The party in person personally appeared before this Court on 11th April, 2016 and when was called upon to work out the matter, has straight-away refused, on the ground that he has other important work and he wants time of more than one month to prepare the matter. As the petitioner was appearing in person, pursuant to the Rules framed by the High Court, namely, Rules for Presentation and Conduct of Proceedings in Person by Parties, governing the issue as regards grant of permission to party in person to conduct his own matter before the Court, the petitioner was orally called upon to appear before the Committee, within one week, however, he refused to co-operate even with that and submits that he is not willing to appear before the said

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Committee.

12. As a consequence, this Court was required to proceed ahead with the matter in absence of any co-operation from the petitioner. This Court noticed that it is an admitted position on record that the petitioner is serving as a teacher and is getting appropriate salary.

13. From the above conduct of the petitioner, *prima facie* it could be easily inferred that he is interested in some how prolonging the matter. He has also not satisfied the order passed by the Magistrate, at least no such compliance is brought to my notice.

14. In view thereof and having regard to the conduct of the present petitioner, it will be appropriate to dismiss and accordingly the present petition is dismissed.

(N.W. SAMBRE, J.)

amj