

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

CRIMINAL WRIT PETITION NO. 1122 OF 2016

Mrs. Sindhubai w/o Ajinath Wanve ...Petitioner

VERSUS

The State of Maharashtra & anr. ...Respondents

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Shri Kiran Jamdar, advocate h/f
Shri S.S.Thombare, advocate for petitioner
Shri C.V.Dharurkar, A.P.P. for respondent

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CORAM : N.W.SAMBRE, J.

DATED : 28th September, 2016

PER COURT :-

Shri Jamdar, learned counsel seeks leave to convert this Writ Petition into Revision. Leave granted. Amendment be carried out forthwith.

2. The Judicial Magistrate, First Class, Bhoom, while dealing with claim under Section 125 of the Criminal Procedure Code at the behest of

present petitioner, vide judgment and order, dated 11.1.2008 granted maintenance of Rs.400/- per month. The said order is based on the fact that admittedly since the marriage between the petitioner and respondent, the respondent started illtreating her.

3. The respondent thereafter moved an application i.e. Criminal Miscellaneous Application No. 17 of 2010 styling it to be under Section 127 of the Code of Criminal Procedure for cancellation of order of maintenance on the ground that the present petitioner is leading adulterous life with Sopan Pandurang Khune at village Pathsangvi.

4. The said application came to be rejected by the order of the learned Magistrate passed on 11.7.2012. Against the said order, the present respondent took out a Revision under Section 397 of the Code of Criminal Procedure before the learned Additional Sessions Judge, Bhoom, being

Criminal Revision No. 49 of 2014. The said Revision came to be allowed by the learned Ad hoc Additional Sessions Judge, Bhoom by judgment and order, dated 13.5.2016. As such present petition.

5. Learned counsel Shri Jamdar would urge that if the order passed by the learned Additional Sessions Judge is perused, but for dealing on the facts, there is hardly any consideration including for reversing the order of award of maintenance. He invited my attention to the observations made in para 12 of the impugned order and would urge that the evidence of the witnesses is not at all taken into account or discussed. He would then submit that in absence of reasons, the order impugned vitiates and is liable to be set aside.

6. Having heard the learned counsel for the respective parties and on perusal of the order impugned, in my opinion, prima facie case for indulgence is made out, as the learned Additional Sessions Judge has dealt upon the facts, however,

not recorded any reasons.

7. In view thereof, issue notice to the respondent, returnable on 19.10.2016.

8. In the mean time, there shall be ad-interim relief in terms of prayer clause 'D'.

(N.W.SAMBRE, J.)

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