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

CRIMINAL WRIT PETITION NO.1497 OF 2015

Dnyandeo s/o Shridhar Mungase,
Age : 47 yrs., Occ. Agri. & Agri. Labour,
R/o Dedgaon, Tq. Newasa,
Dist. Ahmednagar ..PETITIONER

VERSUS

1. Smt. Rangubai w/o Dnyndeo Mungse,
Age : 40 yrs., Occ. Agriculture,
2. Miss. Sunita D/o Dnyndeo Mungse,
Minor, U/gr Mother Res. No.2,
Age – 15 yes, Occ. Minor,
Res. No. 2 & 3, R/o Gogalgaon,
Newasa, Dist. Ahmednagar ..RESPONDENTS

Mr Dhananjay A. Naik, Advocate for petitioner;
Mr H.D. Deshmukh, Advocate for respondents

CORAM : N.W. SAMBRE, J.

DATE : 28th April, 2016

ORAL ORDER :

Respondent – wife along with daughter Sunita initiated Criminal Misc. Application No.3 of 2009 under section 125 of the Code of Criminal Procedure, which was allowed by Judicial Magistrate First Class, Newasa by an order dated 1st January, 2014, awarding maintenance of Rs.2,500/- and Rs.1,500/- per month respectively, to the wife and daughter, which was further approved in Criminal Revision No.77 of 2014 by the learned Additional Sessions Judge, Newasa vide order dated 17th October, 2015. As such present petition.

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2. Learned Counsel appearing on behalf of the petitioner – husband would invite my attention to 7/12 extracts in relation to the land Gat No.392/1/A at Mauje Dedgaon, Taluka Newasa, District Ahmednagar, so as to demonstrate that pursuant to compromise entered into in Regular Civil Suit No.358 of 2001, filed by respondent no.1 – wife, land to the extent of 1 Hectare was given to respondent no.1.

3. Learned Counsel would submit that as the said land was given towards maintenance, the application under section 125 of the Code of Criminal Procedure ought not to have been entertained by both the Courts below.

4. Learned Counsel appearing on behalf of respondents submits that even though a compromise was arrived at as is placed on record between the parties in Regular Civil Suit No.358 of 2001, the petitioner has not permitted the respondent – wife to cultivate the said land and rather, the land is cultivated by the petitioner. According to him, though it is demonstrated on record that the land stood transferred in the name of respondent no.1 – wife, the petitioner is in possession of the said land and income derived therefrom is taken by the petitioner.

5. Having considered the rival submissions, it is required to be noted that in view of the fact that respondent no.1 in clear terms has come out with a case that she is not in possession of the land though in compromise it is shown to have been given to her and income derived therefrom is

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taken by the petitioner – husband, the view taken by the learned Magistrate and revisional court is a plausible view.

6. In view thereof, no interference is called for. Criminal Writ Petition stands dismissed.

(N.W. SAMBRE, J.)

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