

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD.****CRIMINAL WRIT PETITION NO. 100 OF 2006**

Dilip Uttamrao Tambe,
age 25 years, Occu. Agri.
and labourer, resident of
Dongaon (Tambe), Taluka
Paithan, District Aurangabad. .. **PETITIONER.**

VERSUS

1. Manda Dilip Tambe,
age 22 years, occu. Household,
resident of at post Poregaon,
Taluka Paithan District
Aurangabad (through Police
Statin, Bidkin), C/o Paraji
Sampatrao Gaikwad, resident
of Poregaon, Taluka Paithan,
District Aurangabad.
2. The State of Maharashtra. ..**RESPONDENTS.**

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Advocate for Petitioner : Ms.Sneha Rathod h/f S.S.
Chaudhari.

APP for Respondent/State: Mr.S.Y. Mahajan.
Advocate for Respondent No.1 : N.T. Tribhuwan.

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CORAM : V.L. ACHLIYA, J.**3rd AUGUST, 2017.**

ORAL JUDGMENT:

Rule. Rule returnable forthwith. Learned Counsel for respondent No.1 and APP for the State waive notice. By consent, heard finally.

2. Being aggrieved by the order dated 31st May, 2005 passed in M.A. No.182 of 2004 by the J.M.F.C., Paithan, District Aurangabad allowing the application filed by respondent No.1 under Section 125 of the Code of Criminal Procedure granting maintenance @ Rs.1300/- per month, the petitioner preferred Criminal Revision before the Sessions Court, Aurangabad. By the judgment and order dated 12.1.2006, passed in Criminal Revision No.96 of 2005, the learned Additional Sessions Judge pleased to partly allow the revision petition to the extent of modifying the quantum of maintenance awarded by the trial Court. The amount of Rs.1300/- per month awarded by the trial Court was modified and reduced to Rs.1000/- per month. Aggrieved by the order passed by the trial Court as well as revisional court, the petitioner – original non applicant i.e. husband has preferred this writ petition challenging the said orders.

3. Heard learned Counsel for the petitioner, respondent and learned APP for the State. Perused the impugned judgment and orders passed by the Courts below.

4. Learned Counsel for the petitioner assailed the orders passed by the trial Court with contention that the trial Court has failed to take into consideration that the applicant has not proved its case that non-applicant has refused and neglected to maintain the applicant. It is contended that the applicant has left the matrimonial house on her own accord and that too without any justifiable cause within three months after marriage. The applicant was not willing to cohabit with the non-applicant in joint family and that too, in the village. She has left the house on her own accord. It is further contended that the trial Court as well as revisional court have failed to take into consideration that the applicant has failed to prove that the non-applicant has sufficient means to pay maintenance.

5. On the other hand, learned Counsel for respondent No.1 supported the judgment and order passed by the trial

Court as well as revisional Court. He submits that the impugned orders are well reasoned and calls for no interference in writ jurisdiction.

6. In order to appreciate the submissions advanced, I have perused the impugned orders passed by the trial Court as well as the revisional Court. In my view, the orders passed are well reasoned and there is absolutely no illegality or impropriety. The impugned orders are passed on due consideration of rival contentions and the evidence adduced in the case. It is not in dispute that few months after the marriage, the applicant was required to give up her matrimonial house and stay at her parents' house. It is difficult to believe that a married woman would leave her matrimonial house within few months of marriage, without any justifiable cause and stay with her parents. Although, the non-applicant has taken a stand that the applicant has left the house on her own accord and without justifiable cause, there is no evidence as such brought on record as to the efforts made by the non-applicant to fetch back the applicant for cohabitation. In this view, the reasons and findings recorded by the trial Court that non-applicant neglected and

refused to maintain the applicant, cannot be said to be perverse. The revisional Court has examined the evidence in minute details and confirmed the findings recorded to that effect by the trial Court. In this view, the reasons and findings recorded by the trial Court and confirmed in revision that the non-applicant has neglected to maintain applicant calls for no interference in exercise of writ jurisdiction.

7. So far as the quantum of the maintenance awarded is concerned, it has been brought on record that the family of the non-applicant was owner of about 25 acres of land. Out of the said land, 60 Ares of land found to be used for taking sugarcane crop. Therefore, even though it is argued that the land is not entirely owned by the non-applicant, still it makes out a case that the non-applicant has sufficient means to pay the maintenance. It is nowhere the case of non-applicant that the applicant is having separate income to maintain herself. In the light of evidence on record, the reasons and findings recorded by the trial Court as to awarding maintenance, calls for no interference in exercise of writ jurisdiction.

8. In my view, the petition filed is devoid of merits and

substance therein. No case is made out to invoke writ jurisdiction to interfere with the impugned orders. I am, therefore, inclined to dismiss the writ petition.

9. Accordingly, the writ petition is dismissed. Rule stands discharged in above terms.

[V.L. ACHLIYA, J]

Kadam.