

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4608/2013

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Machindra A. Patil for the petitioner
Mrs. Gauri Godse i/b. Surel S. Shah for respondent No.1.

CORAM : K. K. TATED, J.
DATE : AUGUST 2, 2017

P.C.:

1. Heard. By this petition, the petitioner challenges the judgment dated 28.10.2013 passed by the learned Additional District Judge-1, Pandharpur in Criminal Revision Application No.49/2011 directing the petitioner to pay sum of Rs.3000/- by way of monthly maintenance to the respondent wife from the date of Criminal Misc. Application No.167/2009 i.e. from 04.08.2009.

2. The learned counsel for the petitioner husband submits that initially, by order dated 25.01.2000, the court had awarded sum of Rs.1000/- by way of maintenance to the respondent wife. Thereafter the respondent wife filed Criminal Misc. Application No.167/2009 on

04.08.2009 u/s.127 of Cr.P.C. for enhancement of maintenance amount on the ground that the petitioner husband used to get net salary of Rs.11770/- whereas the gross salary was Rs.19339/-. Considering the evidence on record, the learned Magistrate has passed judgment dated 03.09.2011 directing the petitioner to pay additional sum of Rs.400/- by way of maintenance charges i.e. total sum of Rs.1400/-.

3. Being aggrieved by the judgment dated 03.09.2011 passed by the learned JMFC in Criminal Misc. Application No.167/2009 the petitioner preferred Criminal Revision Application No.49/2011 claiming maintenance charges @ Rs.4000/- pm from the date of application. By the impugned order dated 28.10.2013 the appellate court has directed the petitioner to pay sum of Rs.3000/- pm by way of maintenance. Hence, the Writ Petition.

4. The learned counsel for the petitioner submits that the learned Sessions Judge erred in holding that the monthly salary of the petitioner was Rs.7609/- and the petitioner was receiving monthly pension of Rs.11500/- after his retirement from 01.09.2011. He submits that at present the

petitioner is retired and is getting only Rs.11500/- pm. He submits that out of the said amount he has to maintain his second wife and three children therefore, it is very difficult for him to pay sum of Rs.3000/- pm to the respondent wife. He further submits that if the order dated 28.10.2013 passed by the appellate court is not set aside, irreparable loss and injury will be caused to the petitioner. He submits that in the interest of justice, this Hon'ble Court be pleased to set aside the impugned judgment dated 28.10.2013 passed by the learned Sessions Judge.

5. On the other hand, the learned counsel for the respondent wife vehemently opposed the Writ Petition. He submits that the judgment passed by the learned Sessions Judge is according to law. She submits that the respondent wife has made an application for enhancement u/s.127 of the Cr.P.C. after more than 10 years. She submits that as on today the petitioner is getting monthly pension of Rs.11500/-. Therefore, there is no question of entertaining the present Writ Petition and same is required to be dismissed.

6. Heard both sides at length. It is to be noted that as on today, the petitioner is getting monthly

pension of Rs.11500/- after his retirement from 01.09.2011.

7. Considering the amount of maintenance, the Trial Court has awarded less than 1/3rd amount to the respondent wife by way of maintenance charges.

8. Considering these facts, I do not find any reason to entertain the Writ Petition to interfere with the well reasoned impugned order.

9. Hence, the Writ Petition stands rejected. No order as to costs.

JUDGE