

(1)

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

CRIMINAL WRIT PETITION NO.508 OF 2016

Pradeep S/o Vishwanath Mukte,
Age 42 years, Occupation – Service,
R/o Palsa, Tahsil Hadgaon,
District Nanded

..PETITIONER

VERSUS

1. Sau. Veemla W/o Pradeep Mukte,
Age : 28 Years, Occ. Housewife,
2. Vishwanath S/o Pradeep Mukte,
Age : 10 Years, Occupation – Nil,
Through his guardian Mother

Both R/o Bittergaon, Tahsil
Umerkhed, District Yavatmal

..RESPONDENTS

Mr G.N. Khanzode, Advocate for petitioner;
Ms S.H. Bhatia, Advocate (appointed) for respondents

CORAM : N.W. SAMBRE, J.

DATE : 16th March, 2017

ORAL ORDER

By judgment and order dated 17th July, 2009, passed in Misc. Criminal Case No.49 of 2007, learned Judicial Magistrate First Class, Umarkhed, directed the present petitioner to pay maintenance of Rs. 1,200/- to each of the respondents, which order was confirmed by learned Additional Sessions Judge, Pusaad vide judgment and order dated 27th January, 2016, passed in Criminal Revision No.28 of 2009. Thus, the present petition.

(2)

2. Mr Khanzode, learned Counsel appearing on behalf of the petitioner – husband would urge that the orders passed by both the courts below are not sustainable as the quantum of maintenance ordered is not in proportion to the known source of income of the petitioner. He would urge that exorbitant amount of maintenance is ordered to be paid by the petitioner. He would invite my attention to the factual matrix that the petitioner stood retired from the service on medical grounds and is drawing retiral benefits of Rs.4,980/- per month only. According to him, in view of ailment of the petitioner, he requires substantial amount towards medical expenses. He would also dispute the relationship between the parties, particularly as regards the marriage and child born out of the same.

3. So far as the last contention of the petitioner is concerned, though the petitioner has tried to deny the paternity, still in view of the provisions of Section 112 of the Evidence Act there is presumption against him and as such the said contention is liable to be rejected.

4. So far as the quantum of maintenance is concerned, admittedly the petitioner is drawing retiral benefits of around Rs.5,000/- per month. What is ordered to be paid is total amount of Rs.2,400/- per month to the respondents. In my opinion, the same in any manner cannot be termed to be shockingly disproportionate to the known source of income of the petitioner.

(3)

5. In view thereof, there is no substance in the petition. Criminal Writ Petition, therefore, stands rejected.

(N.W. SAMBRE, J.)

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