

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 632/2017

(NATTHU TIKARAM GABHANE (DEAD) & OTHERS **VERSUS** PARBATA NATTHU GABHANE)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.D. Karode, counsel for the petitioners.

CORAM : REVATI MOHITE DERE, J.

DATE : DECEMBER 05, 2017.

Heard learned counsel for the petitioners.

By this petition, the petitioners have impugned the judgment and order dated 20.05.2015 passed by the learned Judicial Magistrate First Class, Bhandara in Miscellaneous Criminal Case No.211/2013 as well as the judgment and order dated 22.04.2016 passed by the learned Sessions Judge, Bhandara in Criminal Revision No.23/2015.

Perused the impugned judgment and orders passed by the learned Magistrate and the learned Sessions Judge. The respondent no.1 is the mother of petitioner nos.2 to 4 and wife of the petitioner no.1 (dead). According to the respondent no.1, the petitioner nos.2 to 4 physically and mentally tortured her and drove her out of the house. Since the respondent no.1 was unable to maintain herself, being deserted by the petitioner nos.2 to 4, she filed Miscellaneous Criminal Case No.211/2013 in the Court of the learned Judicial Magistrate First Class, Bhandara under Section 125 of Cr.P.C. and sought maintenance from the petitioner nos.2 to 4. After evidence was led, the learned Magistrate came to the

conclusion that the petitioner nos.2 to 4 had deserted the respondent and that the respondent no.1 was unable to maintain herself. The learned Magistrate, after considering the evidence on record, observed that the petitioner nos.2 to 4 had ill-treated the respondent no.1. The learned Magistrate also observed that the petitioner nos.2 to 4 had sufficient means to maintain the respondent no.1 and accordingly awarded monthly maintenance of Rs.6,000/- to the respondent no.1, i.e. the petitioner nos.2 to 4 were directed to pay monthly maintenance of Rs.2,000/- each to the respondent no.1. The said judgment and order dated 20.05.2015 passed by the learned Judicial Magistrate First Class, Bhandara in Miscellaneous Criminal Case No.211/2014 was challenged by the petitioner nos.2 to 4 by filing a revision in the Sessions Court, Bhandara. The said revision filed by the petitioner nos.2 to 4 was partly allowed by the learned Sessions Judge *vide* order dated 22.04.2016. The learned Sessions Judge was pleased to reduce the monthly maintenance awarded to the respondent no.1, i.e. the petitioner nos.2 to 4 were directed to pay monthly maintenance of Rs.1,000/- each instead of Rs.2,000/- to the respondent no.1. The learned Sessions Judge has also recorded a finding that the respondent no.1 had proved the financial capacity of the petitioner nos.2 to 4 to pay separate maintenance and that the respondent no.1 was unable to maintain herself. Considering the findings recorded by the learned Magistrate and the learned Sessions Judge, no interference is warranted in the impugned judgments and order, in writ jurisdiction. Accordingly, the petition is dismissed. There shall be no order as to costs.

The dismissal of this petition shall not come in the way of the respondent no.1, in case she challenges the impugned judgment and order dated 22.04.2016, by which the maintenance awarded by the trial Court was reduced. Order accordingly.

JUDGE

APTE