

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL REVISION APPLICATION NO.110/2015

Sangmitra w/o Dhananjay Patil and another Vs. Dhananjay s/o Hiranman Patil

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

Court's or Judge's orders.

Shri R.R.Prajapati, Advocate for applicant.
Shri Mahesh Rai, Advocate for respondent.

CORAM : N.W.SAMBRE, J.
DATE : MARCH 24, 2017

The Court below awarded ad-interim maintenance at Rs.2,500/- per month which was subsequently, at the time of final decision, reduced to Rs.2,000/- per month. Recovery proceedings are initiated. The respondent has deposited an amount of Rs.2,03,000/- as can be inferred from the receipt dated April 10, 2013. The claim of the applicant is she is entitled to recover maintenance outstanding for a period till the date recovery proceedings are initiated.

The learned Magistrate taking support from the provisions of sub section 3 of Section 125 Code of Criminal Procedure, restricted the claim of the present applicant for a period of 11 months. For questioning this order, reliance was placed upon the judgment of the Hon'ble Apex Court in the matter of

Shantha alias Ushadevi and another Vs. B.G.Shivananjappa reported at *A I R 2005 SC 2410*.

What can be gathered from the record is that the learned Magistrate while dealing with the claim for maintenance has restricted the claim of the applicant for a period as is provided under Section 125 (3) of the Cr.P.C. The said order is based on the statutory provisions as the statute puts embargo on the rights of claimant to claim arrears of maintenance for a period of more than one year. In my opinion, no illegality could be noticed in the order impugned. Reliance placed on the matter *Shantha @ Ushadevi (supra)* is wholly misplaced as the said judgment is on the issue of maintainability of the recovery application for various period of recovery in one and the same proceedings.

In view of above, no case is made out for interference in revisional jurisdiction. The revision application is rejected.

JUDGE