

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 519 OF 2010

Suresh s/o. Daulat Patil,
Age 36 years, Occu. Unemployed,
R/o. Lasure, Tq. Pachora,
District Jalgaon at present
Ulhasnagar, Mumbai.

....Petitioner.

Versus

Kalpna @ Kavita w/o. Suresh Patil,
Age 30 years, Occu. Tailoring Work,
R/o. C/o. Sahebrao Rajaram Patil,
Malkhede, Tq. Erandol,
District Jalgaon.

....Respondent.

Mrs. R.R. Mane, Advocate for petitioner.

**CORAM : T.V. NALAWADE, J.
DATED : July 20, 2018.**

JUDGMENT :

1) The petition is filed to challenge the judgment and order of Criminal Revision No. 312/2007, which was pending in the Court of Additional Sessions Judge, Jalgaon. By this decision, the revision of the present petitioner, is dismissed and the order of Judicial Magistrate, First Class, Erandol made in Criminal Application No. 174/2005 is confirmed. Maintenance at the rate of Rs.600/- p.m. is granted in favour of wife and the cost of Rs.500/- is granted to her.

2) The submissions made by the learned counsel for

petitioner show that the petitioner has grievance and ground that he is a handicap person and so, Court ought not to have directed him to pay the maintenance. The submissions made show that the petitioner has obtained divorce which was given exparte against the wife. The divorce was given on the ground of desertion. The maintenance order was made by the Magistrate on 1.11.2007 and the decree of divorce was made on 10.1.2005. The point of entitlement of maintenance of wife was not involved in the divorce proceeding and so, all the contentions, defences which were available in divorce proceeding were available before J.M.F.C. to the husband. The proceeding filed for maintenance before J.M.F.C. was contested by the husband. The J.M.F.C. has considered the circumstance like filing of criminal case for offence punishable under section 498-A of IPC against the husband and the allegations of illtreatment made by the wife. Before the J.M.F.C. the husband has admitted that his monthly income is Rs.1,900/-. The record of agricultural land of the husband was produced. It shows that husband was having around 3 H. of agricultural land.

3) The husband was handicap right from the beginning and so, this ground is not open to him to say that he cannot maintain the wife. Further, he specifically admitted that his monthly income is Rs.1,900/- and that is by way of salary and so, it can be said that

the amount of Rs.600/- granted by J.M.F.C. is meager amount and much more amount could have been granted in favour of the wife. Thus, it is not possible to interfere in the decision given by the J.M.F.C. and the Sessions Court in favour of the wife. In the result, the petition stands dismissed. Interim relief is vacated.

[T.V. NALAWADE, J.]

ssc/