

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

CRIMINAL WRIT PETITION NO.810 OF 2018

Rajeshwar Vyankatrao Reddi,
Age 60 years, Occu. Nil,
R/o Shirur Tajband,
Tal. Ahmedpur, Dist. Latur.

... **Petitioner**

Versus

Jyoti Rajeshwar Reddi,
Age 57 years, Occu. Household,
R/o Reddiniwas, in front of
Petrol Pump, Shirur Tajband,
Tal Ahmedpur, Dist. Latur.

... **Respondent**

...

Mr. V.D.Gunale, Advocate for Petitioner.
Mr. H.I.Pathan, Advocate for Respondent.

...

CORAM : MANGESH S. PATIL, J.

RESERVED ON : 14.02.2019

PRONOUNCED ON : 11.03.2019

JUDGMENT :-

Heard. Rule. Rule is made returnable forthwith.
The learned advocate Mr. H.I.Pathan waives service for
the respondent. With the consent of both the sides the
matter is heard finally at the stage of admission.

2. The Writ Petition presents unfortunate state of affairs wherein after putting a lengthy married life and begetting two sons and a daughter, the couple got estranged at the advanced age of more than 45 years. They have been fighting over maintenance. In a proceeding under Section 125 of the Cr.P.C. in Criminal Miscellaneous Application No.248 of 2015 the Magistrate awarded the wife maintenance @ Rs.4,000/- per month from the date of the application that is 05.08.2015. Both the sides then preferred revisions being not satisfied with the judgment and order passed by the Magistrate. In Criminal Revision No.1 of 2017 the respondent-wife claimed enhanced maintenance whereas in Criminal Revision No.3 of 2017 the petitioner-husband sought to set it aside. Both these Criminal Revisions were decided by the learned Additional Sessions Judge by the common judgment and order dated 05.04.2018 which is now being impugned by the petitioner-husband alone.

3. I have heard both the sides at length. There are concurrent findings of facts by the two courts below and

therefore the writ jurisdiction of this Court which has inherent limitations is now being invoked. In the absence of any material to demonstrate that the observations and the conclusions of the two courts below are either perverse, arbitrary or capricious, the writ jurisdiction cannot be invoked. Bearing in mind all these aspects, let us examine the judgments of the two courts below.

4. It is quite apparent that admittedly the couple has separated physically. The respondent has been staying at Shirur Tajband, Taluka Ahmedpur, District Latur whereas even according to the petitioner he has been staying at Latur. Taking note of these fact the learned Magistrate has clearly noticed that the petitioner had been conspicuously silent as to any attempts by him to resume the conjugal rights. He has not issued any notice to her. Similarly there is no record to show about he having filed any proceeding for restitution of conjugal rights. His such docile approach is suggestive of neglect or refusal on his part to maintain the respondent-wife.

5. Similarly, the learned Magistrate has also taken note of the fact that the petitioner has come out with a very grave and serious allegation questioning her fidelity. He has gone to the extent of mentioning names of couple of persons and alleging that she is having illicit relations with them. However there is absolutely no evidence led by him to substantiate his such serious allegation. The very fact that he is making such a grave allegation touching her character was rightly found by the Magistrate to be a circumstance to infer that he has refused or neglected to maintain her and had enabled her to stay separately and claim maintenance. The observations and the conclusions of the Magistrate by no stretch of imagination can be said to be either perverse, arbitrary or capricious in this respect.

6. As far as quantum is concerned, although there is evidence to show that the respondent-wife has been earning something from rent and has even filed income tax returns which show her annual income to be Rupees One Lakh and odd whereas the income tax returns of the petitioner show that his annual income is more than

Rs.3,00,000/-. Coupled with this, the learned Magistrate has taken note of the fact that both the sons of the respondent are major and the daughter has married whereas no one is dependent on the petitioner. Taking into consideration all such objective material the Magistrate has arrived at a reasonable figure of Rs.4,000/- per month as a maintenance and it has been rightly concurred by the learned Additional Sessions Judge.

7. Having considered the reasoning assigned by both the courts below and the objective assessment made by them on the basis of the evidence, I find no sufficient and cogent reason to interfere with the concurrent findings nay there is no material to reverse them.

8. The Writ Petition is devoid of merit and is dismissed. The rule is discharged.

(MANGESH S. PATIL, J.)

...

vmk/-