

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

15 CRIMINAL WRIT PETITION NO.1577 OF 2016

Tatyaram @ Savta @ Parmeshwar
s/o Gopnath Savant,
Age: 32 years, Occu.: Agril. & Labour,
R/o.: Kuppa, Tq. Wadvani,
District : Beed. PETITIONER

VERSUS

1. Meera w/o Tatyaram @ Satva
@ Parmeshwar Savant,
Age : 30 years, Occu.: Household,
R/o.: Kuppa, Tq. Wadvani,
District : Beed.
2. Amar s/o Tatyaram @ Satva
@ Parmeshwar Savant,
Age : 7 years, Occu.: Education,
Minor U/g of respondent No.1 ... RESPONDENTS

...
Mr. S. A. Ambad, Advocate for petitioner
...

CORAM : MANGESH S. PATIL, J.

DATE : 04.03.2019

ORAL JUDGMENT :-

Heard. Rule. Rule is made returnable forthwith.

2. The petitioner is the husband, who has been directed to pay

Rs.2,500/- per month as maintenance to each of the respondents under Section 125 of the Cr.P.C. He had impugned the judgment and order of the Magistrate by preferring Criminal Revision No. 7 of 2016. By the impugned judgment and order, the revision has been dismissed. Hence, this writ petition.

3. The learned advocate for the petitioner vehemently submits that the judgment and order passed by the Magistrate is perverse and arbitrary and should have been interfered with by the Revisional Court. Therefore, both the orders are perverse, arbitrary and should be interfered with. There was no sufficient material to point out that the petitioner was refusing or neglecting the respondents. Similarly, there was no sufficient evidence regarding his income which would justify the quantum of maintenance fixed by the Magistrate and upheld by the Revisional Court.

4. I have carefully gone through both the judgments, one by

the Magistrate and other by the Additional Sessions Judge. There is a concurrent finding of facts as regards alleged refusal or neglect as well as the quantum. The Magistrate has elaborately discussed the evidence to point out as to how the petitioner was neglecting the respondent No.1-wife by questioning her mental soundness without there being any reason or sufficient basis. He has also pointed out as to how there was allegation about the petitioner having solemnized a second marriage. For the reasons recorded in the judgment the learned Magistrate has reached a plausible conclusion that there was refusal and neglect on the part of the the petitioner to maintain the respondents.

5. As far as quantum, the Magistrate after discussion of evidence as regards various movable and immovable properties including the agricultural lands of the petitioner has arrived at a reasonable conclusion regarding income of the petitioner and has awarded maintenance at the rate of Rs.2,500/- per month to each of the respondents. Prima facie, the Magistrate has

arrived at this factual conclusion based on the evidence obtaining before him. By no stretch of imagination can it be said that the observations and conclusions by the Magistrate are perverse, arbitrary or capricious which could have enabled the learned Additional Sessions Judge to revise the order by resorting to Section 397 of the Cr.P.C.

6. In my considered view none of the orders, passed by the Magistrate or the learned Additional Sessions Judge, suffers from any gross infirmity or illegality to enable this Court to invoke the writ jurisdiction. The writ petition is dismissed. The rule is discharged.

(MANGESH S. PATIL, J.)

vsm/-