

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

947 CRIMINAL WRIT PETITION NO.150 OF 2021

BALIRAM ASHRUBA SHIMPLE
VERSUS
RAJESHRI @ RUKHMINI D/O. BALIRAM SHIMPLE (UNDER GUARDIAN
OF RESPONDENT NO. 3) AND OTHERS

Mr.Moinpasha Shaikh Farid h/f. Mr.A.L. Kanade, Advocate
for the petitioner.

Mr.D.D. Deshmukh and Mr.Ashikh Lokhande h/f.Mr.G.K.Naik –
Thigle, Advocate for the respondents.

CORAM : N.R.BORKAR, J.

DATED : 18.11.2021

PC :-

01. This writ petition takes an exception to the
order dated 16.12.2020 passed by the Sessions Judge, Beed
in Criminal Revision No.35 of 2019.

02. The respondent Nos.1 & 2 herein are the minor
daughters of present petitioner. They had filed
application for enhancement of maintenance under section
127 of the Cr.P.C. before the learned Magistrate. The
learned Magistrate had allowed the said application by

order dated 20.02.2017. The revision petition filed by the petitioner against the said order dated 20.02.2017 came to be dismissed by the order impugned.

03. The respondent Nos.1 and 2 along with their mother (respondent No.3) had filed Criminal M.A. No.106 of 2005 under section 125 of the Cr.P.C. for maintenance against the petitioner. The said application was allowed and the petitioner was directed to pay Rs.500/- each per month to the respondent Nos.1 and 2 and Rs.750/- per month to respondent No.3. The revision petitions were filed against the said order by the petitioner as well as respondent No.3. It appears that the said revision petitions were withdrawn due to amicable settlement between the petitioner and respondent No.3. Petition for divorce by mutual consent was, then filed by the petitioner and respondent No.3.

04. According to the petitioner, the respondent No.3 in the divorce petition accepted an amount of

Rs.1,00,000/- (Rupees One Lakh) and surrendered her right of maintenance, so also right of maintenance of the respondent Nos.1 and 2. According to the petitioner, the learned Magistrate was therefore not justified in entertaining the application for enhancement of maintenance. It is stated that the revisional Court without considering this aspect dismissed the revision petition.

05. I have heard learned Counsel for the petitioner and learned Counsel for the respondents and perused the orders passed by the learned Magistrate and the revisional Court.

06. It is not in dispute that application filed by the respondent Nos. 1 and 2 for maintenance under section 125 of the Cr.P.C. was allowed. The only contention is that the respondent No.3 accepted Rs.1,00,000/- and she had surrendered not only her right of maintenance but also of respondent Nos.1 and 2. If according to the

petitioner the respondent No.3 had surrendered the right of maintenance of respondent Nos.1 and 2, then in that case it was incumbent upon the petitioner to move an application under section 127 of the Cr.P.C. and get the order of maintenance cancelled. However, same is not done. No exception is taken to the quantum of enhancement. Considering these facts and circumstances, I am not inclined to entertain the present petition.

07. The petition is dismissed.

[N.R.BORKAR,J.]