

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

37 CRIMINAL WRIT PETITION NO. 1191 OF 2018

GOPAL S/O. VITHHALRAO SONKHEDE
VERSUS
SUMAN W/O. GOPAL SONKHEDE

...
Advocate for Petitioner : Mr. V.C. Patil h/f Mr. V.D. Patnurkar
...

**CORAM : T. V. NALAWADE AND
M. G. SEWLIKAR, JJ.**

DATE : 1st FEBRUARY, 2021

ORDER :-

Heard learned counsel for the petitioner. The respondent is wife of the petitioner. It is grievance of the petitioner-husband that, in the first matter, which was filed in the year 1984, for relief of maintenance under Section 125 of the Code of Criminal Procedure ("Cr.P.C."), the wife could succeed but in revision filed by him, he got order in his favour. It is contended that the wife then filed another proceedings under Section 127 of the Cr.P.C. and in that matter also she could not get maintenance. It is the contention that the wife then filed proceedings like proceeding under the provisions of the Protection of Women From Domestic Violence Act, 2005 in the year 2018 and stay is granted to that proceeding by this Court, in the proceeding filed by present petitioner. It is his contention that when Judicial Magistrate, First Class has held that on the ground of adultery, the husband has succeeded to defend the proceeding, wife kept filing proceedings one after another and that has caused him harassment and due to that he is entitled to get compensation of Rs.10,00,000/- from his wife.

2. The remedies are given under Sections 125 and 127 of the Cr.P.C. The said remedies are statutory remedies given to the wife. When there is a change in the circumstance, she can always go to the Court to file new proceeding even if her previous proceeding under Section 125 of Cr.P.C is dismissed by the Competent Court. Similarly, the remedy is given under the provisions of the Protection of Women From Domestic Violence Act, 2005. It is statutory remedy and she can file proceeding under that Act also. It is up to the Court to decide whether relief under this statute can be given to the wife or not. Only because she lost her case of maintenance in the past, it cannot be said her intention was to harass the husband. Relationship is admitted and it appears that the wife has four issues from present petitioner. This Court holds that due to these circumstances, it is not desirable even to call the wife to defend the matter.

3. Present proceeding was filed in the year 2018 but no interest was shown by the petitioner to prosecute the matter. The matter came before this Court only on directions given by this Court. Hearing was given to the learned counsel for the petitioner for admission purpose. Due to aforesaid circumstances, this Court holds that relief claimed by the petitioner cannot be given to him. Present proceeding is filed only out of misconception. So, the Criminal Writ Petition stands dismissed.

[M. G. SEWLIKAR]
JUDGE

[T. V. NALAWADE]
JUDGE