

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.279/2019

PETITIONER : Sau. Jyotsana @ Sarita w/o Rahul Kale
Aged about 29 years, Occ. - Housewife
R/o : C/o Hemraj Keshavrao Khuspare
Waki, Tah. Saoner, Distt. Nagpur.

...VERSUS...

RESPONDENT : Shri Rahul s/o Tikaram Kale
Aged about 41, Occ – Agriculturist
R/o Jatlapur, Post Masod, Tah.
Katol, Distt. Nagpur – 441103.

Ms S.D. Paul, Advocate for petitioner

Shri Amol Hunge, Advocate h/f Shri O.K. Masurke, Advocate for respondent

CORAM : AVINASH G. GHAROTE, J.

DATE : 02/03/2022

ORAL JUDGMENT

1. Heard Ms Paul, learned Counsel for the petitioner and Shri Amol Hunge, learned Counsel holding for Shri O.K. Masurke, learned Counsel for the respondent.

2. The petition challenges the order dated 08/03/2019 passed by the Principal Judge, Family Court, Nagpur on the application under Section 125 of the Code of Criminal Procedure,

granting maintenance of Rs.2,000/- p.m. to the petitioner from the date of the application.

3. Ms Paul, learned Counsel for the petitioner submits that the amount of maintenance granted by the learned Family Court is very meagre, considering that the learned Family Court took a note of the 7/12 extracts of the agricultural land, owned by the respondent as well as his family members, which indicated continuous cultivation throughout the year and taking crops of Soybean, Cotton and Oranges etc. She submits that even on a reasonable presumption, the income from the agricultural field, held by the respondent and his family members, would indicate that there was substantial income available and therefore, what has been awarded is a mere pittance and needs to be enhanced.

4. Shri Amol Hunge, learned Counsel holding for Shri O.K. Masurke, learned Counsel for the respondent submits that except for the agricultural field, bearing Khasra No.8/4 admeasuring 1.80 Hectare (approximately 4.5 acres), the respondent does not have any other source of income. He submits that the income of the respondent is hardly Rs.30,000/- per year from the agricultural land.

He, therefore, submits that the impugned order does not need to be disturbed.

5. Having heard the learned Counsel for the parties, I find that the respondent is the owner of Khasra No.8/4 measuring 1.80 Hectare. The 7/12 extract placed on record in respect of the said field indicates that the respondent, is taking Kharip crop from the said field such as Soybean, Tur and Jwari. The report of the Gram Adhikari, addressed to the Tahsildar, Katol dated 27/3/2019 (pg. 51) indicates that there is a Well in field Survey No.8/4 with electric pump and approximately one hectare land is having orange trees. This would indicate that the respondent, would have substantial income from the agriculture land. That apart, the father and mother of the respondent also have separate independent agricultural lands, namely Khasra No.8/1 measuring 2.90 Hectares in the name of Tikaram Kale and Survey No.8/2 measuring 1.80 Hectare, in the name of Pushpabai Kale, which are all being cultivated as per the 7/12 extracts placed on record (pg.36 and 39). This would indicate that the parents of the respondent are having separate independent income and are not dependent upon the respondent.

6. Considering the above position, I feel that the amount of interim maintenance of Rs.2,000/- granted by the learned Family Court is too meagre and requires to be enhanced. Considering the nature of cultivation being made, in my considered opinion, the petitioner, would be entitled to an interim maintenance @ Rs.5,000/- per month. Hence, the petitioner is granted interim maintenance @ Rs.5,000/- (Rupees Five Thousand Only) per month from the date of this order.

7. The writ petition is accordingly allowed. Rule is made absolute in the aforesaid terms.

(AVINASH G. GHAROTE, J.)

Wadkar