

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

CRIMINAL WRIT PETITION NO.820 OF 2023

**SANGRAM GANPATI KENDRE
VERSUS
PARVATIBAI W/O. GANPATI KENDRE AND ANOTHER**

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Advocate for Petitioner : Mr. A. B. Dhongade
APP for Respondent No. 1: Mr. A. D. Hande h/f
Mr. V. B. Dhage

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CORAM : R.M. JOSHI, J

DATE : OCTOBER 11, 2023

PER COURT :

1. Petitioner is the son of Respondent No. 1 who takes exception to the order dated 19.05.2023 passed by learned JMFC, Kandhar directing payment of maintenance of Rs. 3,000/- per month under Section 125(1) of Code of Criminal Procedure.

2. It is the contention of Petitioner that he is retired from service of MSRTC as driver and at present he is drawing monthly pension @ Rs. 2,691/- only. Thus, it is his contention that he is unable to pay maintenance as directed by learned Magistrate.

3. Learned Counsel for the Petitioner sought

support from the document placed on record to argue that the monthly pension of the Petitioner is less than Rs. 3000/- and hence, it is practically impossible for the Petitioner to pay maintenance of Rs.3,000/- to his mother.

4. Learned Counsel for the Respondent No. 1 opposed the said submission by pointing out that the computation of pension placed on record shows that the amount of pension received by Petitioner is after commutation. He further submits that major portion of the pension is already been received by the Petitioner and therefore, there is no substance in the challenge to order in question on the ground that he does not get sufficient pension.

5. Respondent No. 1, who is mother of Petitioner, is aged about 88 years. She is unable to maintain herself. It is moral as well as legal responsibility of Petitioner to take her care. It is unfortunate that Petitioner challenges order of direction of payment of maintenance amount of Rs. 3000/- per month to the mother. This Court finds substance in the contention of

Counsel for the Respondent No. 1 that the present pension is drawn after commutation of pension. The calculation of the commutation of pension clearly indicates that the pension now drawn by the Petitioner is after commutation thereof. It cannot be allowed to be claimed by Petitioner now after receiving major portion of pension in advance, to say that he is unable to maintain old age mother showing amount of pension received now. Thus, this Court finds no substance in the challenge to impugned order. Hence, Petition stands dismissed.

(R.M. JOSHI, J.)

Malani