

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

**31 CRIMINAL WRIT PETITION NO.1251 OF 2020
WITH APPLN/4021/2022 IN WP/1251/2020**

**RAMANAND S/O CHANDRAKANT KASBE
VERSUS
STATE OF MAHARASHTRA AND OTHERS**

Ms. Rekha Choudhary, Advocate h/f Mr. S. S. Choudhary,
Advocate for the petitioner
Mr. S. H. Pathan, Advocate for the respondent No.2
Mr. Y. G. Gujrathi, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 09th JANUARY, 2023

P. C.

1. Heard the learned advocate for the parties.
2. This is a petition filed by the husband challenging order awarding maintenance at the rate of Rs.5,000/- passed by the learned Family Court in Petition No. E-1/2019 by the judgment and order dated 27-02-2020. From the judgment it is seen that the petitioner has not even cross-examined the witness for respondent only he has given his own evidence. The entire case of the petitioner is that he had filed a proceeding under Section 9 of the Hindu Marriage Act against wife which was allowed by the Family Court, Osmanabad in Petition No.A-

99/2018 and the same is allowed by the judgment and order dated 01-11-2018. In spite of decree, wife has not cohabited with the petitioner-husband and filed proceeding for maintenance under Section 125 of the Cr. P. C. only after section 9 of the Hindu Marriage Act petition came to be allowed in favour of the husband. It is submitted by the learned advocate for the petitioner that the petitioner could not appear before the trial court as the petitioner is suffering from various diseases. It is submitted that if the matter is remanded back and if the husband is granted permission to prove his case by giving evidence in the Family Court, he can put up his evidence.

3. Subject to condition that the petitioner shall deposit Rs. 1,05,000/- towards arrears of maintenance as on today and Rs.5,000/- towards cost within a period of four weeks from today, in the Petition No. E-1/2019 the same is remanded back to the Family Court, Osmanabad for fresh decision in the above terms.

4. Thus, this petition is disposed off.

[KISHORE C. SANT, J.]