

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1450 OF 2021

Raju s/o Pralhad Khillari

Petitioner

Versus

Jyoti w/o Raju Khillari
@ Jyoti d/o Rajaram Kale

Respondent

Mr. P. V. Tapse Patil, Advocate for the petitioner.

CORAM : R. M. JOSHI, J.

DATE : 2nd AUGUST, 2023.

PER COURT :

1. This petition takes exception to the order dated 3rd December, 2015 passed by learned Judicial Magistrate First Class, Sengaoon in Criminal M. A. No. 66/2012 seeking enhancement of maintenance.

2. There is no dispute about the fact that respondent/wife had filed Criminal M.A. No. 185/2008 for seeking maintenance. Said application was allowed by order passed in the year 2010 whereby maintenance of Rs. 1,000/- per month came to be granted in favour of respondent. By filing application being Criminal M. A. No. 66/2012, respondent sought enhancement of maintenance amount

on the ground that maintenance granted in the year 2010 is insufficient to meet the necessities. It is also stated in the application that financial condition of the petitioner herein is sound and that he is holding 10 acres irrigated land. It is specifically stated that he is earning more than Rs. 5,00,000/- per annum. On the basis of these averments and by recording finding that the prices of essential commodities prevailing in the year 2010 are now increased so also income of petitioner.

3. Learned counsel for petitioner submits that an agreement was entered into between the parties on 7th April, 2008 whereby respondent/wife has accepted sum of Rs. 1,60,000/- towards one time settlement. Thus, it is his contention that after acceptance of one time settlement, respondent cannot claim further maintenance.

4. Perusal of the impugned order shows that no such plea was raised before the learned Magistrate. There is no explanation forthcoming from the petitioner as to reason for which said relevant fact was not brought to the notice of learned Magistrate. In any case, since the said alleged agreement was not placed before the Court nor

any plea to that effect is raised, the impugned order cannot be faulted with. Since enhancement of maintenance has been granted for sound reason, there is no propriety in interfering in the said order. Hence, petition is dismissed.

(R. M. JOSHI)
Judge

dyb