

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.267 OF 2015

Latabai Raju Tikhule

...Petitioner

V/s.

Raju Shankar Tikule and Anr.

...Respondents

Mr. Rameshwar N. Gite for the Petitioner.

Ms. M. R. Tidke, APP for the Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : 31st JANUARY, 2024.

P. C.:-

1. On 22 January 2024, the matter was argued by learned counsel for the petitioner as none had appeared for the respondent. The matter stood over today to give an opportunity of hearing to respondents. Today, none appears for respondents. As such this Court has proceeded with the hearing of the matter.

2. By this petition the exception is taken to the judgment and order dated 11th November 2014 passed by the Sessions Court in Revision Application No.11/2013 quashing the order passed by the Magistrate in Criminal Application No.86/2012.

3. The facts of the case are that the petitioner had filed an Application for grant of maintenance under Section 125 of Cr.P.C. against

the respondents. Learned Magistrate after considering the evidence on record had granted a sum of Rs.1,500/- per month as monthly maintenance *vide* judgment dated 21st January 2013. Against the order of grant of maintenance, respondents preferred Revision Application. It was contended that on 8th December 2009 the matter was mutually settled between the parties and a sum of Rs.85,000/- was agreed as lump sum maintenance to be paid by the petitioner to the respondent.

4. Sessions Court by order dated 11th November 2014 held that as the petitioner wife had accepted the lump sum maintenance amount she had relinquished her future right to have maintenance and as such allowed the Revision Application .

5. Heard Mr. Rameshwar N. Gite for the petitioner and Ms. M. R. Tidke, APP for the respondent.

6. Mr. Gite, learned counsel for the petitioner tenders a copy of settlement which was entered into between the parties. He further submits that the issue is no longer *res integra* and has been settled by the decision of the learned Single Judge of this Court in ***Ramchandra Laxman Kamble vs. Shobha Ramchandra Kamble and Anr., 2019 ALL MR (Cri) 426.***

7. The only reason why the Revision Application has been allowed by the Sessions Judge is that there is a Deed of Relinquishment

executed by the petitioner wife. The decision in the case of ***Ramchandra Laxman Kamble vs. Shobha Ramchandra Kamble*** (*supra*) has taken a view considering the past judicial pronouncements that an agreement in which wife gives up or relinquishes her right to claim maintenance at any time in future is opposed to public policy and therefore such an agreement even if voluntarily entered is not enforceable.

8. Considering the proposition of law laid down by the learned Single Judge of this Court with which I am respectfully bound, the impugned order is legally unsustainable. Resultantly, the impugned order dated 11th November 2014 is hereby quashed and set aside and the order of Judicial Magistrate, First Class dated 21st January 2013 stands revived.

9. Writ Petition stands allowed.

(SHARMILA U. DESHMUKH, J.)