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36criwp399.19

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

36 CRIMINAL WRIT PETITION NO. 399 OF 2019

VIVEKANAND S/O. BABRUWAN BIRAJDAR
.....Petitioner

VERSUS

RATNAMALA W/O. VIVEKANAND BIRAJDAR AND ANR
.....Respondents

Mr. Sudarshan J. Salunke, Advocate for the petitioner

CORAM : KISHORE C. SANT, J.

DATE : 15th JULY, 2025

P. C.

1. Heard.

2. Petitioner has challenged an order passed by the learned Sessions Judge, Latur dated 22-03-2018 passed in Criminal Revision Petition No. 9/2015. By way of impugned judgment and order the learned Sessions Judge was pleased to dismiss the revision. In the revision an order passed by the learned JMFC was challenged. The learned JMFC, Latur by order dated 03-01-2015 had allowed the Cri. Misc. Application No.

255/2011 of the respondent. The petitioner is directed to pay an amount of Rs. 5000/- per months towards maintenance to respondent No.1-wife. He is directed to pay an amount of Rs.2000/- per month towards maintenance of respondent No.2-daughter.

3. The respondents filed an application under Section 125 of the Cr. P. C. claiming maintenance. It is the case that without any sufficient cause the petitioner has refused and neglected to maintain the wife and daughter. The petitioner is having irrigated agriculture land and he works in the company at Pune on salary of Rs.15000/- per month. It is the case of the petitioner that wife was not behaving properly. She is suffering from mental disease. She had even tried to commit suicide. Because of the wife, he is required to pay much amount on her treatment. Presently he is not having job. The wife is also earning by doing business of tailoring and jewelry. She also earns Rs.10 to 15 thousand per month. He denied that he has refused and neglected to maintain the wife and daughter

without any sufficient cause. The learned JMFC on considering the evidence, observed that the husband has performed second marriage and the said fact is accepted by him in the cross-examination. He thus, inferred that performing the second marriage itself is sufficient to conclude that the husband is neglecting to maintain wife and daughter. There is no evidence produced by the husband to show that the wife is suffering from mental disease. Making such allegations, itself would be cruelty.

4. Considering all aspect the learned Sessions Judge confirmed the order passed by the learned JMFC, Latur.

5. The learned advocate for the petitioner vehemently argued that both the courts have failed to appreciate that the wife is residing with her parents because of her mental illness. The wife has not specifically brought on record the income of the husband. The wife, in her cross-examination admitted that though there is agricultural land, it is of joint family. She could not produce satisfactory evidence to show the income from the

agriculture land. He further submits that in any case the amount awarded is exorbitant. The court has only hypothetically considered the income of the husband, when there is no sufficient evidence on record to show the income.

6. Considering the argument, this court finds that though it is vehemently argued, however, there is nothing to indicate that findings recorded by the learned JMFC, Latur or the learned Sessions Judge is without sufficient record. To show the income of the wife, no evidence is produced on record except the affidavit of the husband. From the cross of the husband, the court has recorded that he has married to another lady. This itself shows that he is having sound position.

7. Considering all above, no case is made out calling for any interference in the impugned judgment and order dated 22-03-2018 passed by the learned Sessions Judge and the order dated 03-01-2015 passed by the learned JMFC, Latur. Consequently, the criminal writ petition stands dismissed.

[KISHORE C. SANT, J.]