



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

CRIMINAL WRIT PETITION NO. 1743 OF 2023

Dnyaneshwar Balasaheb Sodgir

.. Petitioner

Versus

Ganesh Dnyaneshwar Sodgir

U/g Shobhabai W/o Dnyaneshwar Sodgir

And Others

.. Respondents

Mr. A. R. Muley, Advocate h/f Mr. M. P. Kale, Advocate for the
Petitioner.

Mr. R. M. Gaikwad, Advocate for Respondent Nos. 1 to 5
(Appointed through Legal Aid).

CORAM : KISHORE C. SANT, J.

DATE : 04th SEPTEMBER, 2025.

PER COURT :-

. Heard learned advocate for the petitioner and learned
advocate for respondents. By consent of the parties taken up for
final disposal.

2. A challenge in this petition is to an order passed by the
learned Additional Sessions Judge, Gangakhed dated 03.10.2023
thereby allowing the Criminal Revision Application No. 8/2018
filed by the respondents. By way of impugned judgment the

learned Additional Sessions Judge directed the present petitioner to pay to all the respondents an amount of Rs. 1,200/- (Rs. One Thousand Two Hundred Only) each per month. Being aggrieved, the husband of respondent No. 5 and father of respondent Nos. 1 to 4 has approached this Court.

3. The facts in short are that, the respondents have filed an application under Section 125 of the Code of Criminal Procedure (for short "Cr.P.C.") praying for amount of maintenance at the rate of Rs. 3,000/- each per month bearing Misc. Criminal Application No. 41/2014 in the Court of learned J.M.F.C., Gangakhed. It is the case of the present petitioner/husband that the wife is very much earning. She is working in Anganwadi. By doing some allied work she is earning sufficient money. There is no refusal on the part of the husband. It is his case that, the wife herself has deserted and left the company of the husband without sufficient reason. The allegations are denied in the application made by the wife. The husband, therefore, prayed for rejection of the said application.

4. The learned J.M.F.C. by order dated 02.01.2018 was pleased

to reject the application by holding that the wife is in a position to maintain herself. So far as neglect and refusal is concerned, the finding is recorded in favour of the present petitioner/husband. It is observed that, the wife failed to prove the instances quoted in the application. The respondents have filed a revision. The said revision came to be allowed by directing the petitioner to pay to each of the respondents an amount of Rs. 1,200/- (Rs. One Thousand Two Hundred Only) per month. The petitioner is thus before this Court.

5. The learned advocate for the petitioner vehemently argued that, there is clear finding recorded by the learned Trial Court that the wife is able to maintain herself. She has herself deserted the husband. Income of the husband is not properly proved. There was no material before the learned Sessions Court to arrive at a different conclusion. The learned Sessions Judge has allowed the revision only by surmises and conjectures. He, therefore, prays to allow the writ petition.

6. The learned advocate Mr. Gaikwad appointed for respondents vehemently opposes the petition. He submits that, it

is the duty of the husband to maintain wife and children. The wife though is shown to be in service, she is getting only honorary payment and not regular salary. The wife needs to live with dignity. The learned Sessions Court has therefore rightly allowed the revision. He prays for dismissal of the writ petition.

7. During the course of hearing the parties have relied upon following judgments :

(i) Diggaj Ramesh Dapke Vs. The State of Maharashtra & Ors. reported in 2021 ALL MR (Cri) 451.

(ii) Devanand Baliram Wankhade and Ors. Vs. State of Maharashtra and Ors. reported in 2015 ALL MR (Cri) 3618.

(iii) Prashant Pandurang Hingane Vs. Manisha Prashant Hingane reported in 2018 ALL MR (Cri) 760.

(iv) Prabhakar Mohite and another Vs. State of Maharashtra and another reported in 2018 (6) Mh.L.J. (Cri.) 478.

8. This Court has gone through the submissions and the judgments cited above. It does appear that the learned Trial Court has rejected the application under Section 125 of the Cr.P.C. by holding that wife is earning. The learned Sessions Judge while deciding the application has concluded that the reasoning given

by the learned Trial Court is not legal and correct. The learned Sessions Judge has rightly considered that the question is also of minor children. The learned Trial Court has wrongly refused to allow the relief to their extent. So far as income is concerned, the learned Sessions Judge has considered that the husband is getting income from the agricultural land and also working as labour. He also noted that already there is maintenance awarded under the Domestic Violence Act at the rate of Rs. 4,000/- per month to the children. The respondent/wife only gets Rs. 2,000/- per month by working as Assistant in the Zilla Parishad School. This Court does not find any perversity in the order passed by the learned Sessions Judge.

9. This Court has considered the judgments cited above. By now it is well settled that, though the children are residing with wife still, it is the duty of the husband to maintain the children. It has come on record that the wife is also earning, though still not sufficient enough to maintain herself. So far as income of the husband is concerned, there is no specific document on record to give exact idea about his income. This Court thus finds that, the wife is not entitled to receive any maintenance. So far as children

are concerned, it is certainly a duty of the present petitioner to pay maintenance to the children. Hence, the following order :

ORDER

(I) Criminal writ petition is partly allowed.

(II) The impugned order is set aside to the extent of respondent No. 5. To the extent of respondent Nos. 1 to 4 i.e. children the impugned order is maintained as it is.

(III) It is clarified that, the said amount be adjusted while considering the amount of maintenance under any other Act or under any other proceedings.

(IV) With this, criminal writ petition stands disposed of.

10. The learned advocate for respondent Nos. 1 to 5 is appointed though Legal Aid Centre. He shall be entitled to receive the fees as per the rules through Legal Aid Centre.

(KISHORE C. SANT, J.)

PS.B.