
(2016) 06 BOM CK 0068

In the Bombay High Court

Case No : Criminal Writ Petition No. 454 of 2004

Manohar Chand Pinjari

APPELLANT

Vs

Sultana w/o Manohar Pinjari

RESPONDENT

Date of Decision : 10-06-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2017) ALLMRCri 137 : (2016) 3 BomCR(Cri) 686 : (2017) 1 RCRCivil 353 : (2017) 1 RCRCriminal 170

Hon'ble Judges : Ghuge Ravindra V., J.

Bench : Single Bench

Advocate : Mr. M.S. Deshmukh, Advocate, for the Appellant; Mr. S.P. Brahme, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Ghugé Ravindra V., J.—;This matter was admitted on 16/12/2004. Interim relief was not granted.

2. Learned Advocate for the petitioner Mr. Deshmukh seriously contends that an exorbitant amount has been granted by the learned Magistrate while allowing the application of the respondents u/s 125 of the Cr.P.C. The said application was allowed ex parte without hearing the petitioner. The petitioner had preferred Cri.Rev.No.217/2002 for challenging the order dated 07/07/2001. By the impugned judgment dated 17/08/2004, the Revisional Court dismissed the revision application.

3. It is strenuously submitted that the petitioner was working as a "Khalashi" in the Indian Railways and was earning a salary of about Rs. 4 to 5 thousand per month. Despite the same, the learned Magistrate has granted Rs. 800/- per month as maintenance to respondent No.1 wife and Rs. 500/- per month to the two children. It is further submitted that there is a deduction of Rs. 2,400/- from the salary of the petitioner. It is, therefore, prayed that both the impugned

orders be quashed and set aside and the matter be remitted back to the learned Magistrate for early hearing.

4. Mr. Brahme, learned Advocate appearing for the respondents has opposed the petition on the ground that though the impugned order of the learned Magistrate appears to be ex parte, the petitioner alone can be blamed for having remained absent and having not participated in the hearing. The Revisional Court has considered the record and proceedings and has concluded that there was proper service upon the petitioner.

5. It is further submitted that the petitioner had deserted respondent No.1 / wife. She is unemployed. His earnings at the relevant time was about Rs. 7 to 8 thousand by way of a salary. With the passage of about 15 years, his salary must have grown multifold 4 times. He also earns overtime. He is earning rent with regard to a room owned by him. It is, therefore, submitted that the petition be dismissed with costs.

6. I have considered the submissions of the learned Advocates.

7. It is trite law that unless the impugned judgment appears to be perverse and erroneous, the Court should refrain from causing an interference in its revisional jurisdiction. Merely because a second view is possible, any interference is uncalled for.

8. It cannot be ignored that the maintenance awarded by the learned Magistrate is to the extent of Rs. 800/- to respondent No.1 wife and Rs. 500/each to respondent Nos. 2 and 3. Same was granted in 2001. Salary of the petitioner must have grown at least 3 times considering the passage of 15 years from 2001 till this date.

9. In the light of the above, I do not find that the impugned orders could be termed as being perverse. This petition, being devoid of merit, is therefore dismissed. Rule is discharged.