
(1997) 07 BOM CK 0014

In the Bombay High Court

Case No : Criminal Writ Petition No. 944 of 1996

Sou. Janabai Pandit Pawar

APPELLANT

Vs

Pandit Shamji Pawar and others

RESPONDENT

Date of Decision : 11-07-1997

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (1998) 1 BomCR 525 : (1998) BomCR(Cri) 200 : (1998) 2 DMC 235 : (1998) 1 RCR(Criminal) 88

Hon'ble Judges : T.K. Chandrashekhara Das, J

Bench : Single Bench

Advocate : Mrs. A.M.Z. Ansari, Ms. P.H. Kantharia, A.G.P, for the Appellant; S.M. Gorwadkar, for the Respondent

Judgement

T.K. Chandrashekhara Das, J.—This petition has been filed by wife who was granted maintenance u/s 125 of the Code of Criminal Procedure at the rate of 200/- p.m. by an order dated 19-1-1995 in Misc. Application No. 1090/90 dated 19-1-1995 on the file of J.M.F.C., Malegon Nashik. The husband-respondent filed revision before the District and Sessions Judge at Malegaon, District Nashik as Criminal Revision Application No. 80 of 1995 and the order of maintenance was set aside by the Sessions Court. The petitioner challenges that order in this petition.

2. The learned Sessions Judge, though confirmed the liability of husband-respondent to maintain the petitioner, set aside the order of maintenance on the ground that there was no evidence to prove the means of livelihood of the respondent. The learned Counsel for the respondent submits that the petitioner is not entitled for maintenance as the application was time barred. She has made application for maintenance after 10 years. She could not continue with her husband and she stayed alongwith her son-in-law. I do not agree with the submission advanced by the learned Counsel for the respondent. u/s 125 of the Code of Criminal Procedure, it is the obligation of the husband to maintain his

wife. Simply because wife could not make an application for maintenance for a long period will not dis-entitle her for claiming maintenance. It may be that she was not required any help from the husband for her maintenance because of the then circumstances existing. But after the changed circumstances as she was not in a position to maintain herself, she could approach the Magistrate Court u/s 125 of the Code of Criminal Procedure. The law of limitation will not apply in such circumstances.

3. In the result, writ petition is allowed. The impugned order passed by the learned Sessions Judge dated 9-2-1996 is set aside.

4. Petition allowed.