

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

CRIMINAL WRIT PETITION NO. 13 OF 2015

PANDURANG S/O RAOSAHEB LODHE

V/S

SAU. VAISHALI W/O PANDURANG LODHE

AND ANR.

.....

Mr. C.K.Shinde, Advocate for the Petitioner.

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CORAM : V.M.DESHPANDE, J.

DATE : 30th JANUARY, 2015

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PER COURT :

1. Heard Mr. C.K.Shinde, the learned counsel for the Petitioner.

2. The challenge in the present Writ Petition is to the Judgment and Order dated 16/10/2014 passed by the learned District Judge – 1, Newasa, district Ahmednagar in Criminal Appeal No. 38/2014 arising out of the Judgment and order dated 26/11/2013 passed by the learned Judicial Magistrate First Class, Court No. 3, Newasa, district Ahmednagar in

Criminal Misc. Application No. 179/2010.

3. By the order dated 26/11/2013, the learned Magistrate allowed the application filed by respondent No. 1 Vaishali u/s 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 [hereinafter referred as 'the Act' for the sake of brevity]. The learned Magistrate directed the present petitioner to pay ₹ 2,000/- [Rupees Two Thousand only] per month by way of maintenance to the respondent No. 1 and also ₹ 1,000/- [Rupees One Thousand only] per month towards maintenance to his son Aditya. Further, the learned Magistrate directed that the present petitioner shall provide ₹ 1,000/- [Rupees One Thousand only] per month by way of rent to the respondent No. 1. The said order was challenged in Criminal Appeal No. 38/2014, which is dismissed by the learned appellate Court on 16/10/2014.

4. The only submission made on behalf of the learned counsel for the petitioner is that the amount is exorbitant. He further submitted that in fact respondent No. 1 and petitioner's son Aditya are already getting ₹ 1,000/- and ₹ 500/- per month respectively by way of maintenance in the

proceedings filed by them u/s 125 of the Code of Criminal Procedure. Therefore, according to him, the impugned orders are liable to be set aside.

5. Merely because respondent No. 1 wife and respondent No. 2 son are getting ₹ 1,000/- and ₹ 500/- per month respectively by way of maintenance in the proceedings filed by them u/s 125 of the Code of Criminal Procedure, that does not dis-entitle them to claim further maintenance under the Act. Further, both the Courts below have considered the said aspect and thereafter they reached to the conclusion that the respondent No. 1 is entitled to receive an amount of ₹ 2,000/- in addition to the amount which she is already getting and also son Aditya is entitled for ₹ 1,000/- in addition to an amount of ₹ 500/- which he is already getting from the earlier order passed in a proceeding u/s 125 of the Code of Criminal Procedure. While passing the impugned orders, both the Courts below considered the aspect of education of respondent No. 2 Aditya, life style and the inflation. Further, it is admitted position that respondent No. 1 – wife is residing separately, therefore, she is entitled to claim rent @ ₹ 1,000/- per month.

6. Both the Courts below have considered the aspect that the petitioner is one of the members of the joint family, having 45 Acres of land. Though, the submission is made that the present petitioner is having only 6 Acres land, that aspect is already considered by the Courts below.

7. The petitioner was unable to point out any error apparent on the face of record to exercise the powers of this Court under Article 227 of the Constitution of India.

8. There is no merit in the present Writ Petition. The Writ Petition as such is dismissed.

[V.M.DESHPANDE, J.]