

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

CRIMINAL WRIT PETITION NO.1248 OF 2015

Vinod s/o Ramrao Waghmare
Age 38 years, Occu. Labour,
R/o Bhimnagar, Bhavsingpura,
Navyug Colony, Aurangabad

.. Petitioner

Versus

Sow. Meera w/o Vinod Waghmare,
Age 30 years, Occu. Household,
R/o Ravindra Suradkar,
Ekta Nagar, Aurangabad

.. Respondent

Mr B.V. Dhage, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 23rd October 2015

PER COURT

Heard learned Counsel for the petitioner-husband on merit.

2. In the matrimonial proceedings, it appears that the learned trial Court has ordered payment of compensation of amount of Rs.2,00,000/-, which was subject matter of Criminal Appeal No.78 of 2015. Learned Additional Sessions Judge, by an order dated 5th August 2015 passed below Exh.4 has stayed the proceedings before the trial Court.

3. Learned Counsel for the petitioner would urge that in the proceedings under the Protection of Women from Domestic Violence Act, the respondent - wife has, in clear terms, admitted that she has stayed for a period of three months with the applicant and thereafter she went to her paternal house and as such, according to him, she is

not entitled for maintenance. He would then urge that the amount of compensation and condition of stay ordered by learned Sessions Court is exorbitant.

4. Having perused the case papers, it is noticed that the order questioned in the present proceedings is an interlocutory order passed during the pendency of appeal preferred against the order of learned trial Court directing payment of compensation of Rs.2,00,000/-. The Criminal Appeal No.78 of 2015 is already pending on the file of learned Sessions Judge, Aurangabad. Apart from above, the considerations on merit, as are sought to be relied upon, particularly in the light of the evidence of wife is concerned, in my opinion, cannot be gone into at this stage, particularly when there was interim protection granted in favour of applicant, directing him to deposit 70% amount ordered by the learned trial Court. Vacation of interim protection i.e. stay to the recovery, in my opinion, in the above referred background when equities which were considered and weighed by learned lower appellate Court, were properly appreciated. Non-compliance of the same resulted into vacation of stay, as the order of stay passed in favour of the petitioner was conditional.

5. In view of above, no case for interference is made out. As such, petition fails, stands rejected.

(N.W. SAMBRE, J.)

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