

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 38 OF 2014

Rahul Ashok Waghmare & Anr. .. Petitioners

Versus

Sou. Rekha Dnyaneshwar Nalawade
@ Priya Rahul Waghmare & Anr. .. Respondents

Mr. Murtaza M. Najmi, Appointed advocate for the petitioners
Ms. Apeksha Vora, Advocate for the respondent No. 1.
Mr. A. R. Patil, APP for the respondent-State.

CORAM:-M.L. TAHALIYANI, J.
DATED : -20/02/2015

P.C.

Admit. Respondents waive service. By consent of the parties taken up forthwith for final hearing.

2 Heard the learned advocates for the parties.

3 It is seen from the record that the respondents failed to get any relief from the learned Magistrate under The Protection of Women from Domestic Violence Act. Therefore, they moved the sessions Court in appeal. The appellate Court directed the petitioners to pay an amount of Rs.3000/- per

month by way of maintenance to respondent No. 1 (wife) and her son Ishant. This order is challenged by the petitioners in the present petition.

4 It is seen that since beginning the mother of the petitioner No. 1 attends the Court. Her contention is that petitioner No. 1 is physically challenged person and he is unable to earn. This defence is not taken before the learned Magistrate. Considering the change in the circumstances, it is just and proper that the petition under The Protection of Women from Domestic Violence Act, is heard finally so that the physical capacity of petitioner to engage himself in some work can be examined by the learned Magistrate. Hence, I pass the following order:

i) The demand draft of Rs.15,000/- brought by mother of petitioner No. 1 shall be handed over to the learned advocate for respondent No. 1. As far as the balance of the arrears are concerned, this Court is not inclined to pass any order as the hearing of the petition itself is being expedited.

ii) Needless to say that the interim order will be subject to the final order passed by the learned Magistrate.

iii) The demand draft given by the mother of petitioner No. 1 shall be deposited with the Secretary of Maharashtra Legal Services Authority at Mumbai. Respondent No. 1 shall be at liberty to collect the demand draft and encash the same.

iv) The petition pending in the Court of Judicial Magistrate, First Class, Khadki Court, Pune, shall be decided within a period of one month from the date of receipt of this Order.

5 The petition stands disposed of.

6 The learned Magistrate shall act on the authenticated copy of this Order.

(JUDGE)

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