

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

CRIMINAL WRIT PETITION NO. 180 OF 2015

ROHIDAS S/O SOPAN PATIL
VERSUS
SAU VAISHALI W/O ROHIDAS PATIL

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Advocate for Petitioner : Mr C R Deshpande
Advocate for Respondents : Mr Vinod Patil

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CORAM : V.K. JADHAV, J.
Dated: October 06, 2016

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PER COURT :-

1. With the consent, heard finally at admission stage.
2. Being aggrieved by the order passed by the Additional Sessions Judge, Jalgaon, dated 20.1.2015 below Exh.7 in Criminal Appeal No.83/2014, the appellant/original opponent in the Domestic Violence Proceeding preferred this writ petition.
3. Brief facts, giving rise to the present criminal writ petition are as under :-

The Judicial Magistrate First Class, Jalgaon by order dated 7.8.2014 in Criminal M.A.No.1082/2011 directed the present petitioner to pay maintenance @ Rs.8,000/- p.m. and to pay a compensation of

Rs.50,000/- alongwith expenses of Rs.8,000/-. The learned Magistrate has directed the present writ petitioner to pay maintenance amount from the date of application i.e. 15.12.2011. Aggrieved by the same, the petitioner/opponent preferred an appeal bearing Criminal Appeal No.83/2014 and also filed an application Exh.7 in the said appeal for staying the effect, execution and implementation of the Judgment and order passed by the Magistrate in the said proceeding. The learned Additional Sessions Judge, Jalgaon has partly allowed the said application and thereby stayed the judgment and order passed by the Magistrate in Misc. Criminal Application No.1082/2011 as stated above with certain directions. The learned Additional Sessions Judge, Jalgaon has directed the writ petitioner to deposit Rs.2.00 lacs in Trial Court within three weeks from the date of the order and further directed the writ petitioner to deposit maintenance amount of Rs.5,000/- p.m. before the Trial Court from the date of the order till the decision of the appeal on the 15 day of every month. Being aggrieved by the same, the opponent husband has preferred this writ

petition.

4. The learned counsel for the petitioner submits that, the petitioner has submitted an application before the Lower Appellate Court with the request to stay the effect, implementation and execution of the order passed by the Magistrate under appeal on just conditions. The learned counsel submits that, the petitioner is not in a position to deposit the said amount of Rs.2.00 lacs as directed by the Additional Sessions Judge, Jalgaon in lieu of the arrears of the maintenance. The learned counsel submits that, however, the petitioner is regularly depositing the amount of Rs.5,000/- p.m. towards maintenance before the Trial Court. Learned counsel submits that, even the petitioner has complied with the order passed by this Court dated 10.2.2015 and accordingly deposited Rs.1.00 lac before this Court and the same is also withdrawn by the respondent-wife. Learned counsel submits that, considering the same, the order passed by the Additional Sessions Judge, Jalgaon, may be modified to the extent of depositing the amount of Rs.1.00 lac with a further direction to dispose

of the appeal in a time bound manner.

5. The learned counsel for respondent-wife submits that, the application seeking various reliefs under the provisions of Domestic Violence Act came to be submitted in the year 2011. Respondent-wife was not getting any amount towards interim maintenance. Learned Magistrate has disposed of the said criminal Application No.1082/2011 in the year 2014 and directed the petitioner-husband to pay maintenance @ Rs.8,000/- p.m. from the date of application i.e. 15.12.2011. Thus, arrears of maintenance was to the tune of Rs.3,54,000/- at the time of passing of the order by the Additional Sessions Judge, Jalgaon. Learned counsel submits that, in view of the same, the Additional Sessions Judge, Jalgaon has rightly directed the petitioner to deposit Rs.2.00 lacs before the Trial Court. No interference is required.

6. As per the order passed by this Court dated 10.2.2015, the petitioner-husband has deposited an amount of Rs.1.00 lac before this Court and respondent-

wife has also withdrawn the same. Being aggrieved by the Judgment and Order passed by the Magistrate, the petitioner-husband has preferred an appeal and the same is pending before the Additional Sessions Judge, Jalgaon. The petitioner-husband has deposited Rs.1.00 lac before this Court as directed and further paying regular maintenance of Rs.5,000/- p.m. as directed by the Additional Sessions Judge, Jalgaon. Thus, by modifying the order passed by the Additional Sessions Judge, Jalgaon, this writ petition can be disposed of. Hence, order.

O R D E R

- I. Criminal Writ Petition is hereby partly allowed.
- II. The order passed by the Additional Sessions Judge, Jalgaon below Exh.7 in Criminal Appeal No.83/2014 stands confirmed with the following modification :-
 - a] That, the petitioner-husband/original appellant should deposit Rs.1.00 lacs (Rs. One lac) in the Trial Court.

b] Rest of the order stands confirmed.

III. Needless to state that, the petitioner-husband has already deposited Rs.1.00 lac (Rs. One lac) before this Court and the same is withdrawn by the respondent-wife. Thus, the petitioner-husband need not deposit Rs.1.00 lac (Rs. One lac) in the Trial Court in terms of the aforesaid modifications.

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IV. The learned Additional Sessions Judge, Jalgaon is hereby directed to dispose off the Criminal Appeal No.83/2014 within SIX MONTHS from the date of this order.

V. Writ Petition accordingly disposed off.

(V.K. JADHAV, J.)

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