

(1)

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

CRIMINAL WRIT PETITION NO. 508 OF 2016

Vilas s/o Prabhakar Choudhari,
Age: 60 years, Occu: Labour,
R/o Near Shrikrushna Temple,
Budhwar Peth, Savada,
Tq. Raver, Dist. Jalgaon

..PETITIONER

VERSUS

1. Sau. Chaya W/o Vilas Choudhari,
Age: 40 years, Occu: Household,
R/o. C/o. Laxman Kadu Mahajan,
Khadka Road, Ramdaswadi,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon

2. The State of Maharashtra

..RESPONDENTS

Mr D. R. Adhav, Advocate for petitioner;
Ms R. P. Gaur, Addl. Public Prosecutor for respondent No. 2

CORAM : N.W. SAMBRE, J.

DATE : 12th April, 2016

ORAL ORDER :

Heard.

2. The respondent No. 1-wife has filed an application before the Court of Judicial Magistrate First Class, Bhusawal under the provisions of the Protection of Women from Domestic Violence Act, 2005, seeking maintenance and expenses incurred towards treatment administered to her son, who is suffering from Blood Cancer.

3. It is claimed that the petitioner, who is an educated person, is in the

(2)

business of photography and also holds some agricultural land.

4. The learned Magistrate ordered the payment of Rs. 70,000/- lump-sum to the present respondent by the petitioner towards medical expenses incurred for the medical treatment of son and Rs. 500/- p.m. to the respondent towards medical expenses and residence from the date of application.

5. Feeling aggrieved by the aforesaid order, the appeal came to be preferred by the present petitioner before the learned Additional Sessions Judge, Bhusawal under Section 29 of the Protection of Women from Domestic Violence Act, 2005, which came to be dismissed by the learned Additional Sessions Judge on 11th March, 2016. As such present petition.

6. Learned Counsel appearing on behalf of the petitioner submits that there is no adequate source of income to the petitioner, as he is a agriculture labour and is already paying maintenance under Section 125 of Code of Criminal Procedure to the extent of Rs. 1,200/- to respondent No. 1 – wife. According to him, if the present order of directing payment of amount is analysed, it would cast burden on him which he is not able to discharge.

7. Having perused the judgment and order passed by the learned Magistrate on 4th July, 2015 and the order passed by the learned Additional Sessions Judge dated 11th March, 2016, it is required to be noted that it is

(3)

not disputed by the petitioner that his son Mahesh is suffering from Blood Cancer. Apart from above, it is required to be noted that, for awarding the amount of Rs. 70,000/- towards medical expenses of son Mahesh, there is sufficient material placed on record to draw an inference that the said amount is spent on treatment administered to Mahesh in Birla Hospital, Pune.

8. The learned Court below has ordered payment of Rs. 500/- towards medical and residence expenses of respondent No. 1 from the date of application.

9. Looking to the nature of the amount, as is ordered and having regard to the fact that the petitioner is already paying Rs. 1,200/-p.m. to the respondent No. 1-wife towards maintenance under Section 125 of Code of Criminal Procedure, in my opinion, no prejudice is caused to the petitioner in making payment of Rs. 70,000/- towards medical expenses to his own son and Rs. 500/- towards medical and residence charges to respondent No. 1. The powers are exercised by both the Court below in view of express provisions of Protection of Women from Domestic Violence Act, 2005.

10. No illegality could be noticed, Writ Petition, as such fails and stands dismissed.

(N.W. SAMBRE, J.)

sjk