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

CRIMINAL WRIT PETITION NO. 532 OF 2016

Farukh Khan s/o Jahurkhan Qureshi & ors. ..PETITIONERS

VERSUS

The State of Maharashtra & ors. ..RESPONDENTS

Mr N. E. Deshmukh, Advocate for petitioners;
Mr A. R. Kale, Addl. Public Prosecutor for respondent No. 1

CORAM : N.W. SAMBRE, J.

DATE : 25th April, 2016

ORAL ORDER :

Heard Mr Deshmukh, learned Counsel appearing on behalf of petitioners at length.

2. The respondent No. 2 – wife and respondent No. 3 – daughter were granted maintenance of Rs. 2,000/- and Rs. 800/- respectively, under the provisions of Protection of Women from Domestic Violence Act, 2005, by the learned Judicial Magistrate First Class, Chopda, Dist. Jalgaon, by an order dated 11th September, 2012, in Criminal Misc. Application No. 202 of 2011, which was confirmed in Criminal Appeal No. 20 of 2012, by the learned Additional Sessions Judge, Amalner, by his order dated 9th March, 2015.

3. While trying to make out a case for opposing order of maintenance, learned Counsel appearing on behalf of the petitioners would submit that,

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in view of pendency of proceedings under the provisions of restitution of conjugal rights, the learned Magistrate ought not to have proceeded under the provisions of Protection of Women from Domestic Violence Act.

4. The next submission of the learned Counsel appearing on behalf of the petitioners is that, without giving findings as regards the income of the petitioner No. 1, the learned Magistrate has ordered maintenance and fact remains that the petitioner No. 1 is met with an accident.

5. With the assistance of the respective Counsel, I have perused the orders passed by the learned Magistrate, so also the learned Additional Sessions Judge. Presuming that the petitioner No. 1 is working as a labour, still in my opinion, the order of maintenance by the learned Magistrate i.e. Rs. 2,000/- to respondent No. 2-wife and Rs. 800/- to respondent No. 3-daughter is reasonable one.

6. Fact remains that the order of maintenance, which is passed in 2012 by the learned Magistrate, is not complied with in its entirety.

7. In the background of above referred observations, in my opinion, no case for interference in extra-ordinary jurisdiction is made out, petition fails and stands dismissed.

(N.W. SAMBRE, J.)

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