

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

CRIMINAL WRIT PETITION NO.408 OF 2015

1. Bhagwan s/o Bhoniba Damale,
Age 36 years, Occu. Service
2. Bhoniba s/o Shankar Damale,
Age 75 years, Occu. Nil
3. Simintabai w/o Bhoniba Damale,
Age 66 years, Occu. Household,

All r/o Damalwadi, Taluka Pathardi
District Ahmednagar

..Petitioners

Versus

1. The State of Maharashtra
2. Sau. Sunita w/o Bhagwan Damale,
Age 33 years, Occu. Household,
R/o Indiranagar, Taluka Shrirampur
District Ahmednagar

..Respondents

Mr S.S. Thombre, Advocate for petitioners
Mr S.G. Karlekar, A.P.P. for respondent No.1-State
Mr N.P. Ghanwat Advocate h/f Mr K.B. Autade, Advocate for
respondent No.2

CORAM : V.K. JADHAV, J.

DATE : 26th July 2016

PER COURT

1. Heard learned Counsel for the petitioner, learned A.P.P. for
respondent No.1 - State and learned Counsel for respondent No.2.
2. Being aggrieved by the judgment and order passed by the
Additional Sessions Judge, Shrirampur dated 18th September 2014 in
Criminal Appeal No.20 of 2013, the respondents - original opponents
preferred this writ petition.

3. Brief facts, giving rise to the present writ petition are as under:

4. Respondent No.2 - Sunita had filed an application under Sections 22, 23, 93 of the Protection of Women from Domestic Violence Act against her husband and his relatives. It has alleged in the said application by her that even after seven years of marriage, she did not conceive child and, therefore, the opponent No.1-husband started insisting for divorce at the instigation of his parents, opponents No.2 and 3 to the application. Even, further on 23th July 2006, the opponent No.1 - husband had abused and assaulted the applicant - wife on account of some flimsy grounds and drove her out of house by snatching her ornaments. Consequently, the applicant-wife went to her maternal uncle at village Dharwadi, Taluka Pathardi and thereafter her maternal uncle dropped her at the house of her parents at Shrirampur. Thereafter, attempts were made to convince the opponents to take her for cohabitation, but they did not pay any heed. The applicant-wife is separately residing in rented house at Shrirampur. She has filed the application for return of gold ornaments given to her in the marriage, Rs.1 lakh towards compensation and Rs.2,000/- per month towards rent of the house.

5. The opponents have strongly resisted the application by filing written statement. It has denied that the applicant-wife was subjected to ill-treatment on account of flimsy grounds and the opponent-husband was insisting her for divorce, as she did not conceive any child. It has stated that the application has been filed only to harass the opponent-husband. The parties led their oral and documentary evidence in support of their rival contentions. After hearing both the

parties, learned Judicial Magistrate, First Class, Shrirampur has directed the respondents to pay the amount of Rs.50,000/- to the applicant as compensation against domestic violence within three months from the date of the order. Being aggrieved by the same, the opponent-husband preferred Criminal Appeal No.22 of 2013, whereas the applicant-wife has preferred Criminal Appeal No.20 of 2013. The learned Additional Sessions Judge, Shrirampur, by his order dated 18th September 2014 dismissed the Criminal Appeal No.22 of 2013 and confirmed the order passed by the Magistrate, directing the opponents to pay the compensation of Rs.50,000/- to the applicant-wife. So far as Criminal Appeal No.20 of 2013 is concerned, the learned Additional Sessions Judge, Shrirampur, by his order dated 18th September 2014, further directed the opponent-husband to pay Rs.1,500/- per month to the applicant-wife towards the rent from the date of the application.

6. Being aggrieved by the said order, the opponent-husband preferred two Criminal Writ Petitions. Criminal Writ Petition No.407 of 2014 was preferred against the order of compensation, whereas present Criminal Writ Petition is preferred against the order directing the opponent-husband to pay the monthly rent of Rs.1,500/- to the applicant-wife. Criminal Writ Petition No.407 of 2014 came to be dismissed by this Court by order dated 16th July 2015. Thus, this writ petition is preferred to the extent of the rent awarded by the Additional Sessions Judge, Shrirampur from the date of application to the applicant-wife from the opponents.

7. Learned Counsel for the petitioners submits that the applicant-wife is residing in a locality known as Indiranagar, Shrirampur. The learned Counsel submits that the applicant-wife is getting separate maintenance of Rs.6,000/- per month from the opponent-husband. The applicant-wife need not spend Rs.1,500/- as a rent for the premises, situated in Indiranagar area. Learned Counsel submits that thus, the amount awarded by the learned Additional Sessions Judge towards rent is quite excessive.

8. Learned Counsel for the respondent No.2-wife submits that the respondent-wife is paying Rs.2,000/- per month as a rent and considering the facts and circumstances of the case, the learned Additional Sessions Judge has rightly awarded the amount of Rs.1,500/- per month towards the rent.

9. It appears from the impugned judgment and award in Criminal Appeal No.20 of 2013 that the learned Additional Sessions Judge has observed that the applicant is residing in Indiranagar area of Shrirampur and considering the monthly rent payable in said area, the applicant is entitled to Rs.1,500/- per month, in addition to the amount of compensation, which is awarded by the trial Court. The opponent-husband has not adduced any oral or documentary evidence to substantiate his contention that the applicant-wife is residing in village Damalwadi and, therefore, she has to spend less amount on rented premises.

10. In view of this, I do not find any fault in the judgment order passed by the Additional Sessions Judge, Shrirampur in Criminal Appeal No.20 of 2013. As such, no interference is required. Hence, the following order :

ORDER

Criminal Writ Petition is dismissed. In the circumstances, there shall be no order as to costs.

(V.K. JADHAV, J.)

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