

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1337 OF 2004

Prakash B. Phadtare

.. Petitioner

vs.

Sou Vimal Prakash Phadtare & ors.

.. Respondents

Ms Tejasweeta Bhosale h/f. Mr. Rahul Kate for the Petitioner.

Mr. Rajesh Dharap i/b Ajit Kenjale for Respondent No.1.

CORAM : M. S. SONAK, J.

DATE : 21 JANUARY 2016.

P.C. :-

1] The challenge in this petition is to the order dated 9 January 2014 made by the Additional Sessions Judge, Karad.

2] In fact, by the impugned order the Additional Sessions Judge had partly allowed the revision application instituted by the Petitioner and reduced the amount of compensation awarded to the Petitioner's two daughters from Rs.1000/- to Rs.750/- each. However, the impugned order has maintained the enhanced maintenance at the rate of Rs.1000/- per month in respect of the Petitioner-wife.

3] Ms Bhosale, learned counsel for the Petitioner, has submitted that the evidence on record as noted by the Additional Sessions Judge indicates that the Petitioner's take home salary was Rs.3280/-.

Besides, as noted by the Additional Sessions Judge, in the impugned order the Petitioner does require to maintain his own mother as well as two daughters from his second marriage. She submitted that the Petitioner was a clerk, who, by now, has retired and if all these circumstances are cumulatively considered, then award of enhanced maintenance was not at all justified.

4] Mr. Rajesh Dharap, learned counsel for Respondent No.1, has submitted that the maintenance awarded was in fact on the lower side. It is only because the Respondents do not have the financial means, the Respondents did not challenge the impugned order and seek further maintenance. He submitted that the two daughters were studying and therefore, the award of maintenance at the rate of Rs.1000/- per month in their favour was entirely justified. Now that the Additional Sessions Judge has reduced this amount to Rs.750/-, there is absolutely no warrant for interference with the same at the behest of the Petitioner.

5] Having heard learned counsel for the parties, perused the material on record, in my judgment, there is no case made out to interfere with the impugned order. The gross salary of the Petitioner

was noted as to be Rs.7840/- though, there is reference to take home salary was Rs.3280/-. There is an admission that the Petitioner has holds only 48 gunthas of dry land. The Petitioner was employed with Bajaj Auto, Ltd., Pune. Over the years, the Petitioner's salary is bound to have increased and at the same time, it is also possible that his responsibilities or obligations towards other members in the family may have decreased. The learned counsel for the Peitioner was unable to make any statement as to whether the Petitioner's mother is still living. The Petitioner has also not offered any explanation with regard to the two daughters whom he claimed he has to maintain, particularly since there is no material on record with regard to divorce with the Respondent-wife. Be that as it may, the Additional Sessions Judge, upon consideration of the material on record has awarded maintenance of Rs.750/- to each of the daughters and maintained maintenance at the rate of Rs.1000/- in favour of the wife. There is neither any jurisdictional error nor any reasonableness in making of the impugned order.

6] Accordingly, no case is made out to interfere with the impugned order. This petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)