

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.2756 OF 2014

Manzoor Ahmed Nizamuddin Shaikh .Petitioner

Vs.

Sabina Anjum Manzoor Ahmed Shaikh .Respondents
& anr.

Mr.S.R.Pawar, Advocate, for the Petitioner
Mr.S.M.Shoaib, Advocate, for the Respondent No.1
Mrs.M.R.Tidke, APP, for the Respondent No.2

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 25.02.2016

P.C.

. This Writ Petition is limited only to the extent of the quantum of maintenance and the rent for a separate alternate accommodation which is awarded to the Respondent No.1 by the learned Metropolitan Magistrate, 52nd Court, Kurla, Mumbai.

2. Submission of the learned counsel for the Petitioner/husband is that the Petitioner is

an electrician and earning hardly the income of Rs.5,000/- to Rs.7,000/- per month. Therefore, he is not at all in a position to pay the maintenance as awarded by the learned Trial Court at the rate of Rs.6,000/- from the date of the order and Rs.1,500/- per month towards separate alternate accommodation. To substantiate his submissions, learned counsel for the Petitioner has relied upon the observations of the Trial Court in para 15 of its order to the effect that "considering the evidence on record and assumed income of electrician, the Respondent must have earning more than Rs.5,000/- to Rs.6,000/- per month". Hence, it is urged that the Trial Court itself has observed that the income of the Petitioner is in the range of Rs.5,000/- to Rs.6,000/-. That means, his income is not less than Rs.7,000/- per month.

3. Per contra, learned counsel for the Respondent No.1 submits that the Petitioner is misconstruing the observations made by the learned trial Court in para 15. In para 15, the trial Court has clearly stated that, approximate income of the electrician must be more than Rs.5,000/- to Rs.6,000/-. It means that his income is not less than Rs.6,000/-. It is further urged that the petitioner is having agricultural land at his native place Azamgad, Mumbai. The name of the Petitioner is recorded in the record of rights of the agricultural land. According to the Respondent No.1, he is earning Rs.50,000/- per month from the agricultural land and hence, after taking into consideration the income of the present Petitioner both from his business and also from his agricultural land, the trial Court has according to the learned counsel for the Respondent No.1 awarded the maintenance and some

amount towards the separate alternate accommodation.

4. On perusal of the order and Judgment of the trial Court, it is noticed that the trial Court has considered all the aspects of the case including the fact that the Petitioner is working as electrician and must be getting in this day and time not less than Rs.5,000/-. The trial Court has also considered the fact that the Petitioner is having agricultural land at his village where his name is recorded thereby indicating that the said land stands in his name and he is the owner thereof. Now, it was for the Petitioner to disclose his source of income and exact amount of income which he is getting from his business and also from the agricultural land. The Petitioner has chosen not to disclose his real income. In such circumstances, considering the requirement of the Respondent

No.1 for the maintenance and also for the separate alternate accommodation, the quantum of the maintenance fixed by the trial Court can hardly be called exorbitant or unreasonable so as to warrant interference therein by this Court in its writ jurisdiction. Therefore, the Writ Petition is dismissed.

(DR.SHALINI PHANSALKAR-JOSHI, J.)