

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.4919 OF 2015

Uttamrao s/o Namdeorao Yawale

-vs-

Ranjana w/o Uttamrao Yawale

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. Moharir, Advocate for petitioner.

Shri T. S. Kene, Advocate for respondent.

CORAM : A.S.CHANDURKAR, J.

DATE : JUNE 21, 2016

Heard.

The challenge in the present writ petition is to the order passed by the trial Court dated 20/04/2015 directing the petitioner to pay interim maintenance during pendency of the matrimonial proceedings. The petitioner who is the husband has been directed to pay sum of Rs.2000/- per month to the respondent-wife and Rs.1000/- per month as maintenance for the daughter.

Shri S. Mohrir, the learned counsel for the petitioner submitted that in proceedings under Section 125 of the Criminal Procedure Code, 1973, the learned Magistrate by order dated 03/05/2010 refused to grant any maintenance to the respondent. He further granted maintenance only for the daughter. It is submitted that this order was not placed before the civil Court due to which the civil Court failed to take into consideration this aspect and passed the impugned order. He submitted that as the respondent was unwilling to reside with the petitioner on her own accord, she was not

entitled for maintenance.

Shri T. S. Kene, the learned counsel for the petitioner submitted that due to ill treatment at the hands of the petitioner, the respondent was not residing with him. He submitted that the petitioner was having sufficient means of earnings and therefore the order did not call for interference.

The order passed under Section 125 of the Criminal Code is dated 03/05/2010. In paragraph 6 thereof the stand of the respondent as regard ill treatment by the petitioner has been noted. The trial Court in the impugned order has referred to copy of this order not being placed on record. It has thereafter considered the earning capacity of the petitioner and passed the impugned order.

Considering the fact that the order passed under Section 125 of the Criminal Code was dated 03/05/2010 and thereafter the proceedings were referred for mediation which have also failed, I do not find that this is the material aspect that could vitiate the impugned order. Considering the income of the petitioner, the amounts granted towards maintenance appear to be reasonable. In view of this, there is no reason to interfere in the writ jurisdiction. The writ petition is dismissed with no order as to costs.

JUDGE