

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3275 OF 2016

Shri. Mohan Vithalrao Jadhav

....Petitioner

V/s.

Smt. Rupali Mohan Jadhav & Ors.

....Respondents

* * * * *

Mr. A.S. Gole, Advocate for the petitioner.

Mrs. N.S. Jain, APP for the respondent, State.

CORAM :- SANDEEP K. SHINDE, J.

DATE : 22nd June, 2017.

P.C. :-

1. The petitioner, who is the husband of respondent no.1 and father of respondent no.2 has preferred this petition against the order passed below Exhibit-5 in Criminal Misc. Application No. 472 of 2012 dated 2nd September, 2013

passed by the Learned Judicial Magistrate First Class, Pune under Section 23 of the Domestic Violence Act, 2005.

2. The differences between the petitioner and respondent no.1 resulted into an ex-parte decree of divorce passed on 8th April, 2013 by the Joint Civil Judge Senior Division, Satara in Hindu Marriage Petition No. 26 of 2011 at the instance of the petitioner, husband. The respondent, wife has applied for setting aside the ex-parte decree, which is pending. It appears there were other proceedings between the parties, including maintenance proceedings initiated by the wife against the petitioner under Section 125 Criminal Procedure Code. Be that as it may, she applied for maintenance under the provisions of the Domestic Violence Act and claimed interim maintenance vide Application, Exhibit-5 in Criminal Misc. Application No. 472 of 2012. That the Learned Joint Civil Judge Junior Division, First Class, Pune granted interim maintenance of Rs.1,500/- to the wife and daughter till the final decision of the Application. Aggrieved by it, this writ petition is preferred.

3. Heard Learned Counsel for the petitioner, none appears for the respondents.

4. At the first place, the petition is against the interim order, however it appears, the Learned Judge has not taken into consideration the maintenance awarded to the respondent under Section 125 Criminal Procedure Code while quantifying interim maintenance. That as on today, Rs.26,500/- is due, in terms of the order dated September, 2013. The Learned Counsel for the petitioner, submitted that, he has already deposited Rs.41,000/- in the trial Court and the balance is Rs.26,500/- only. He submitted Misc. Application No. 472 of 2012 is scheduled for arguments before the trial Court on 27th June, 2016. That since, petition is against interim order, I am not inclined to interfere with the order passed by the Learned Judicial Magistrate First Class. That since Rs.26,500/- is yet payable, the petitioner is directed to deposit Rs.10,000/- more in the trial Court within a period of 2 weeks from today. The petitioner in person undertakes to deposit Rs.10,000/- in the trial Court as directed. In the circumstances, the trial Court

shall not take any coercive steps to recover the amount due and payable under the order dated 2nd September, 2013. With the aforesaid directions, the petition is disposed off with no order as to costs.

(SANDEEP K. SHINDE, J)