

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

CRIMINAL WRIT PETITION NO. 732/2015

Javed Khan s/o Jabbar Khan ..vs.. Noorulhuda w/o Javed Khan and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. J. R. Kidilay, Advocate for petitioner.

Mr. A. B. Mirza, Advocate for respondent nos. 1 and 2.

Mr. R. S. Nayak, A.P.P. for respondent no.3.

CORAM : V.M. DESHPANDE, J.

DATED : JUNE 7, 2017

Heard.

In the present writ petition, judgment and order passed by learned Additional Sessions Judge, Akola in Criminal Appeal No.133/2014 by which the learned lower appellate Court partly allowed the appeal filed on behalf of the present respondent nos. 1 and 2 and directed the present petitioner to pay an amount of Rs.4,000/- in favour of the respondent no.1 and Rs.3,000/- in favour of the respondent no.2 (daughter) towards the monthly maintenance.

I have heard Mr. Kidilay, learned counsel for the petitioner, Mr. A. B. Mirza, learned counsel for respondent nos. 1 and 2 and Mr. Nayak, learned A.P.P. for respondent no.3. During the course of arguments, Mr. Mirza pointed to this Court that the very same judgment was challenged by the present respondent nos. 1 and 2 by filing the writ petition bearing No.850/2015 and this Court has already dismissed the writ petition. Further, it is to be seen that the present writ

petition arises out of an order granting interim maintenance. The main application for maintenance is still pending before the competent court and it is stated on behalf of both the learned counsel that the said proceedings are fixed for evidence in this month only.

In that view of the matter, I am of the considered view that presently, it will not be justified to make any observation in the matter since it will cause prejudice to both the parties especially when the main application for maintenance is yet to be decided by the competent Court.

Hence, following order is passed.

ORDER

- (i) The writ petition is dismissed.
- (ii) The judgment and order passed by the Additional Sessions Judge, Akola in Criminal Appeal No.133/2014 is hereby confirmed.
- (iii) The learned Magistrate in whose Court in Misc. Criminal Case No.10/2014 is pending, is directed to dispose of the said proceeding within two months from the receipt of this order.
- (iv) If the respondent nos. 1 and 2 try to protract the proceeding then in that event the petitioner shall have liberty to approach this Court seeking the necessary relief.

JUDGE