

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 106 OF 2014

PUNDALIK MADKAIKAR.

... Petitioner

Versus

SAVITRI MADKAIKAR AND ANR.

... Respondent

Shri Gaurish N. Agni, Advocate for the Petitioner.

Coram:- C. V. BHADANG, J.

Date:- 9th January 2018

ORAL ORDER:

The challenge in this petition is to the order of maintenance passed by the learned Magistrate in proceedings under the Protection of Women from Domestic Violence Act, 2005. The learned Magistrate by an order dated 30.03.2013, has granted maintenance of Rs.8,000/- to the respondent no. 1 (wife) and the minor child. That order has been confirmed in appeal by the learned Sessions Judge vide judgment and order dated 20.06.2014, passed in Criminal Appeal No. 44/2013.

2. In the present case, the relationship between the parties is not in dispute. It is also not in dispute that the petitioner and the respondent no. 1 (wife) are staying separate, since last more than six years and there is a minor child born out of the wedlock, who is staying with the respondent no. 1.

3. I have heard Shri Agni, the learned Counsel for the petitioner. None appears for the respondent no. 1.

4. The record discloses that the dispute was referred to mediation, however, unfortunately, it did not yield any favourable result. The only contention raised by Shri Agni, the learned Counsel for the petitioner is that, on the basis of the pay slip of the petitioner for the month of August, 2010, in which the total salary drawn by the petitioner is shown as Rs.16,061/- and after deduction of Rs.13,460/-, the net take home salary is shown as Rs.2,601/-, the petitioner could not have been directed to pay maintenance at the rate of Rs.8,000/- per month.

5. Admittedly, the petitioner is in Government service and is serving on the ferry boat. The respondent no. 1 has produced Form No. 16 of the salary drawn by the petitioner for the year 2013-14 (Assessment Year 2014-15), in which, the gross salary of the petitioner is shown as 3,40,500/-.

6. Shri Agni, the learned Counsel for the petitioner, in all fairness, does not dispute this Form No. 16. The reliance placed on the pay slip of the year 2010, in my considered view, is misplaced, in view of the recent earnings of the petitioner, which are reflected in Form No. 16. It would be significant to note that an amount of Rs.8,000/- as maintenance, together to the wife and

the child, cannot be said to be exorbitant by any standards. I have gone through the order passed by the learned Magistrate and the learned Sessions Judge and I do not find that they suffer from any infirmity.

The petition is without any merit and is accordingly dismissed. The amount deposited before this Court along with interest, if any, shall be paid to the respondent no. 1 on proper identification. Needless to mention that no interference is called in order regarding custody also.

C. V. BHADANG, J.

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