

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 513 OF 2018

(SUHAS SURESH KHOBRAGADE ..VS.. SAU EKTA SUHAS KHOBRAGADE & ANR.)

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

Court's or Judge's orders

Shri A.A.Dhawas, Advocate for Petitioner.
Shri A.V.Muley, A.P.P. for Respondent Nos.1 & 2.

CORAM : Z.A.HAQ, J.

DATED : OCTOBER 19, 2018.

Heard.

2. The respondent had filed proceedings under the provisions of the Protection of Women Domestic Violence Act, 2005 (hereinafter referred to as "the Act of 2005"). By the judgment dated 3rd June 2017, the learned Magistrate upheld the claim of the present respondents for maintenance and directed the present petitioner to pay Rs.4,000/- per month to the respondent No.1(wife) and Rs.3,000/- per month to the respondent No.2 (minor son).

Being dissatisfied with the amount of maintenance determined by the learned Magistrate, the present respondents had filed appeal before the Sessions Court under Section 29 of the Act of 2005. This appeal is allowed by the impugned order. The learned Sessions Judge has held that the petitioner is liable to pay Rs.10,000/- per month to wife and Rs.5,000/- per month to minor son towards maintenance.

3. Being aggrieved by the orders passed by the subordinate Courts, the petitioner has filed this writ petition.

4. The learned advocate for the petitioner has submitted that the respondent No.1-wife is not entitled for maintenance from the petitioner as she cannot be said to be the victim of domestic violence. This submission cannot be accepted as the order passed by the learned Magistrate upholding the claim of wife for maintenance from the petitioner/ husband was not challenged by him earlier and this challenge is raised now when the appellate Court has enhanced the amount of maintenance.

Other submission is that the amount of maintenance determined by the learned Sessions Judge is on the higher side.

5. In paragraph 9 of the impugned judgment, the learned Sessions Judge has recorded that the gross salary of the petitioner is Rs.60,688/- per month and after deductions of Rs.12,534/-, the petitioner is getting salary of Rs.48,154/-. After considering all the relevant aspects, the learned Sessions Judge has directed the petitioner to pay Rs.10,000/- per month to wife and Rs.5,000/- per month to minor son, the amount of maintenance being payable from the date of filing of Application No. 8 of 2015. I find that the learned Sessions Judge has rightly considered the relevant aspects and the order passed by him determining the amount of maintenance payable by the petitioner to the respondents cannot be faulted with.

The challenge as raised by the petitioner does not require any consideration. The writ petition is **dismissed**. In the circumstances the parties to bear their own costs.

6. While hearing the matter it is noticed that the age of the respondent No.2 is shown as three years in the cause title of the memo of petition. On query, the learned advocate for the respondents has submitted that the petitioner has not paid/ deposited the amount as per the judgment passed by the learned Sessions Judge.

Considering the facts of the case, it is directed that the amount of arrears shall be deposited by the petitioner within three months and it shall be deposited in a nationalized bank in Fixed Deposit in the name of the respondent No.2 Saksham Suhas Khobragade. The amount be kept in fixed deposit which would fetch maximum interest, for the period till Saksham Suhas Khobragade attains the age of 18 years. After Saksham Suhas Khobragade attains the age of 18 years the learned Magistrate shall pass appropriate orders about disbursal of the amount on application to be filed by the respondents.

JUDGE

RRaut..