

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11489 OF 2019

SWATI VIVEK MARATHE
VERSUS
VIVEK BHIMRAJ MARATHE

Mr.A.A.Pimpalwadkar, Advocate for the petitioner.
Mr.R.S.Kasar, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/10/2019

PER COURT :

1. This matter was considered on 03/10/2019. The respondent was absent in the proceedings. An order was also dictated allowing the writ petition. Before the order could be signed, the learned Advocate for the respondent/husband mentioned the matter on Friday and contended that he may be heard.

2. Hence this matter is taken on board today. Today none of the 2 advocates appearing for the applicant/wife are present.

3. On 20.09.2019, at the request of the learned advocate for the respondent, the matter was adjourned and posted on 03/10/2019

for "passing orders". None was present for the respondent.

4. The petitioner is aggrieved by the order dated 27.03.2019 passed by the Trial Court by which, the application exhibit 12 filed by the petitioner/ wife seeking interim alimony in HMP No.332/2018, has been rejected.

5. The learned advocate for the petitioner has strenuously criticized the impugned order and has drawn my attention to the 10 grounds formulated in the memo of the petition.

6. The learned Advocate for the respondent has strenuously opposed the petition and prays for its dismissal. He, however, cannot indicate from the record as to whether he had brought it to the notice of the Court as to what are his employment earnings.

7. I find that exhibit 12 was purely an application for claiming interim alimony. The wife has tried to make out a case that the husband is an engineer and he works in a company drawing Rs.30,000/- as monthly salary. It was alleged that the husband earns an annual agricultural income of Rs.4 lac. The Trial Court, in a cryptic order, which can hardly demonstrate any reason assigned,

has recorded that the wife was taking treatment from a psychiatrist and no document has been placed on record to indicate the earnings of the husband.

8. In my view, in such matters, the husband is also under an obligation to demonstrate before the court his actual earnings and cannot be permitted to suppress such earnings.

9. In view of the above, this Writ Petition is allowed. The impugned order dated 27.03.2019 is quashed and set aside. The application exhibit 12 is remitted to the file in HMP No.332/2018. Both the litigating sides are at liberty to advance fresh arguments on exhibit 12. So also, the respondent/ husband would be obliged to bring before the Trial Court his actual earnings insofar as his service is concerned and as regards the agricultural income, so as to enable the Trial Court to decide exhibit 12 in an appropriate manner.

(Ravindra V.Ghuge, J.)