

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 914 OF 2018

Sau. Sangita Rameshwar Daspute,
Age 30 years, Occu: Household,
C/o Bhaskar Vishwanatrao Munde,
R/o Galli No.3, Jaibhavani Nagar,
Aurangabad.

... **PETITIONER**

VERSUS

Rameshwar Shrimantrao Daspute,
Age 34 years, Occu: Contractor,
R/o Jaibhavaninagar,
Behind Jagrut Hanuman Mandir,
House No.4/39/761, Aurangabad.

... **RESPONDENT**

...

Mr. Chandrakant V. Thombre, Advocate for Petitioner.

Mr. Abhaysinh K. Bhosale, Advocate for Respondent.

...

CORAM : **T. V. NALAWADE, J.**

DATE : 25th June, 2019.

ORAL JUDGMENT:

. Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2 The order made by the learned Judicial Magistrate First Class, (Railway Court), Aurangabad in M. A. No.62 of 2014 to the extent of giving direction to the Petitioner to give evidence in respect of rented premises is challenged in the present proceeding. The wife has filed proceeding under Section 12 of the Domestic Violence Act and in that proceeding she has prayed for monthly allowance for rent of Rs.1,000/-. The Magistrate has made the order as follows:

"Applicant has to lead evidence in respect of
avilment of rented premises."

3 At the time of granting maintenance allowance or allowance for making payment of rent, the Court is expected to consider the financial resources of both husband and wife and status of the parties. The Court cannot expect that the wife should first obtain premises on rent basis and then only she comes to the Court for getting reimbursement. Ordinarily, the lady, who has no financial resources lives with some relatives and she is at the mercy of some relatives. She can afford to take premises on rent basis only when some money is with her and that money can come only when Court makes order in her favour. In view of these circumstances, this Court

holds that it was not proper on the part of learned Judicial Magistrate First Class to make such order. Considering the capacity of the husband and status of the parties, allowance needs to be given by the Judicial Magistrate First Class. In the result, the following order is passed:

ORDER

- I. The petition is allowed.
- II. The order to aforesaid extent is set aside.
- III. The Magistrate is to decide the matter in accordance with the aforesaid observations.
- IV. Rule is made absolute in those terms.

[T. V. NALAWADE, J.]