

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

WRIT PETITION NO.218 OF 2019

(Rais Ahamad Abdul Hafij Vs. Foujiyabano d/o Shaikh Mobin)

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

Court's or Judge's orders.

Shri S.S. Bhalerao, Advocate for Petitioner.

CORAM: ROHIT B. DEO, J.

DATE: 3rd JUNE, 2019.

The petitioner – husband is assailing the judgment and order dated 18.04.2013 passed by the Judicial Magistrate First Class (4th Court), Buldhana in proceedings under section 12 of the Protection of Women from Domestic Violence Act, 2005 (DV Act for short), which judgment is confirmed in Regular Criminal Appeal 38 of 2013 which is dismissed by the Sessions Judge, Buldhana vide judgment dated 02.01.2019. With the assistance of the learned counsel for the petitioner I have scrutinized the reasons recorded by the courts below.

2] The learned Magistrate has recorded a finding of fact that the respondent – wife was subjected to domestic violence by her husband – the petitioner herein. This finding of fact is confirmed in appeal. Nothing is brought to my notice to indicate that the finding of fact recorded by the courts below is either perverse or is vitiated by any serious

error of law. In writ jurisdiction, I am not inclined to re-examine the concurrent finding of fact recorded by the courts below that the wife was subjected to domestic violence.

3] The learned Magistrate has awarded monthly maintenance of Rs.3000/- to the wife and Rs.3000/- to the child who admittedly is mentally challenged. The Appellate Court has concurred with the learned Magistrate on the aspect of entitlement to and the quantum of maintenance.

4] Concededly, the child is mentally challenged. In this view of the matter, the quantum is more than reasonable. The learned Magistrate has considered the income of the husband as Rs.15,000/- per month on the principle of best judgment. No fault can be found with the approach or appreciation of material on record in arriving at the said figure.

5] Equally unexceptionable is the award of Rs.50,000/- as compensation under section 22 of the DV Act.

6] No compelling case is made out for this Court to interfere with the concurrent findings of fact recorded by the courts below.

7] Record reveals that the respondent – wife is not

receiving the maintenance notwithstanding the concurrent orders in her favour. It is stated at the bar that as against the arrears of Rs.6,98,000/- approximately the petitioner husband has deposited hardly Rs.70,000/-. This statement is fairly made by the learned counsel for the petitioner husband. It is further stated that the execution is pending. The Executing Court is requested to expedite the execution proceedings and to conclude the same, as far as possible within four months from the date of this order.

8] The registry is directed to communicate this order to the respondent – wife herein and the Executing Court. This shall be done within a week.

9] Subject to the aforesaid observations and directions, the petition is dismissed.

JUDGE