

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

CRIMINAL WRIT PETITION NO.1082/2019

Sachin Krushnarao Kshirsagar.vs.Sau. Kirti alias Harshala Sachin Kshirsagar

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

Court's or Judge's orders.

Mr. J. H. Jumde, Advocate for petitioner.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 10, 2020

Heard Mr.Jumde, learned counsel for petitioner.
This writ petition filed is against concurrent findings
recorded by learned Judicial Magistrate First Class,
Kalmeshwar and learned Additional Sessions Judge-9,
Nagpur.

According to learned counsel for petitioner,
maintenance of Rs.5,000/- per month, as granted by learned
Magistrate for son Poshit, which is confirmed by learned
Additional Sessions Judge, Nagpur on 25.09.2019, is on
higher side. He submits that when the petitioner is only a
labour, the order be interfered with.

Respondent no.1, who is admittedly wife of the
petitioner, filed proceeding under Section 12 of the
Protection of Women From Domestic Violence Act. The said
was registered as Misc. Criminal Application No.107/2016.
The said proceeding is still pending. During the pendency of
same, the wife has presented an application for maintenance
for herself and for son Poshit. The learned Magistrate, vide
order dated 28.11.2017, partly allowed the application

inasmuch as though claim of the wife for maintenance was not granted, the learned Magistrate directed the petitioner that he shall pay maintenance amount of Rs.5,000/- per month to his son from the date of the order.

Being aggrieved by the said, the petitioner preferred statutory appeal. The said was registered as Criminal Appeal No.23/2018 and the learned Additional Sessions Judge, after hearing the parties to the appeal, dismissed the appeal filed on behalf of the petitioner.

Perusal of the order shows that it is the claim of the wife that the petitioner is running a catering business. The learned appellate Court, in paragraph 7 of the impugned judgment, observed that Suresh (PW2) deposed before the Court that the petitioner runs catering services by name Nandu Catering Services. Nothing is brought on record to dispute the said position.

Further, it is not in dispute that Poshit is son of the petitioner, aged about 3 years approximately. It is the duty of every father to maintain his minor son. There may be disputes between him and his wife however for that dispute between husband and wife, the minor child should not suffer.

In view of the fact that there is nothing on record to disbelieve version of Suresh (PW2), I do not find merit in the present writ petition. The petition is, therefore, dismissed.

JUDGE