

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

CRIMINAL APPLICATION (APL) NO. 206 OF 2020

Aakash s/o Shalikram Ghatole,
Aged about 25 years, Occupation
- Labourer, R/o. Lahan Umari,
Akola, Tah. and District - Akola.

.... **Applicant**

- Versus -

Sau. Rani w/o Aakash Ghatole,
Aged about 22 years, Occupation
- Service, R/o. C/o. Raghunath
Mehare, Mothi Umari, Akola,
Tah. and District - Akola.

.... **Non-applicant**

Mr. N. R. Tekade, Advocate for the applicant
Mr. A. R. Prasad, Advocate for the non-applicant

**CORAM : ROHIT B. DEO, J.
DATED : 5th March, 2021.**

ORAL JUDGMENT

Heard.

2. Admit.

3. With consent, the application is finally disposed of at the admission stage.

4. Applicant Mr. Aakash Shalikram Ghatole (for short 'Aakash') is aggrieved by the order dated 5-4-2019 rendered by the Judicial Magistrate First Class, Court 7, Akola in Miscellaneous Criminal Application 93/2016 whereby the application preferred by the respondent Mrs. Rani Aakash Ghatole (for short 'Rani') seeking interim maintenance in proceeding initiated under the Protection of Women from Domestic Violence Act (D.V. Act) is partly allowed and Mr. Aakash is directed to pay his wife Mrs. Rani interim monthly maintenance of Rs. 6,000/- with effect from the date of the application. Mr. Aakash unsuccessfully challenged the said order in Criminal Appeal 77/2019 which is dismissed by the Additional Sessions Judge, Akola vide judgment dated 19-10-2019, which is also impugned herein.

5. This Court issued notice vide order dated 9-3-2020 and stayed the order of interim maintenance subject to Mr. Aakash depositing Rs. 20,000/- within one week. It was made clear that if the amount of Rs. 20,000/- is not deposited within the stipulated period, the interim order shall stand automatically vacated. It is not in dispute that Mr. Aakash has not deposited the amount of

Rs. 20,000/-, till date.

6. Adverting to the merits of the application under Section 482 of the Code of Criminal Procedure, 1973 (Code), I entirely agree with the *prima facie* findings recorded concurrently and, therefore, there is no case made out for exercise of inherent powers.

7. Mrs. Rani avers that her marriage with Mr. Aakash was solemnized on 7-11-2015 and registered on 8-12-2015. The mother and cousin brother of Mr. Aakash approached Mrs. Rani and her mother and assured that their marriage shall be solemnized as per religious rites and customs and till then, the couple may not make a public declaration of the marriage. It is further alleged that Mr. Aakash visited Mrs. Rani at her parental house once or twice and then refused to accept her calls. Mrs. Rani and her mother went to the family residence of Mr. Aakash and were driven out. Mrs. Rani has leveled several other allegations including the insistence of dowry etc. to make out a case of domestic violence. It would not be necessary for the purpose of deciding the instant application to deal with the allegations in the application under Section 12 of the D.V. Act.

8. The learned Magistrate was dealing with an application seeking interim maintenance. It is well settled that while deciding the entitlement to interim maintenance, it would not be necessary to minutely examine the material on record or to weigh the probative value thereof. It would suffice if the learned Magistrate finds that *prima facie*, the applicant is not in a position to maintain herself.

9. Mrs. Rani claims that her father is not financially well placed and that he earns his livelihood by doing tailoring work. Mrs. Rani claims that her husband Mr. Aakash earns Rs. 20,000/- to 25,000/- per month from his catering business. Mr. Aakash while rebutting the said submission, claims that Mrs. Rani was working as a Sales Woman with a New Look Gift Centre and was earning Rs. 7000/- per month. Mr. Aakash further claims that he was working as helper and was earning hardly Rs. 150/- per day and that he has to take care of his aged parents.

10. The Courts below noted that Mr. Aakash did not place on record any material to show that he was earning hardly Rs. 150/- per day as helper. It is further noted that Mr. Aakash has not bothered to maintain Mrs. Rani and that he has not given her a single rupee

since 2016.

11. In exercise of inherent power, it would not be permissible to disturb the *prima facie* findings recorded by the Courts below. The interim maintenance granted is neither unreasonable nor disproportionate. No case is made out for interference. The application is dismissed.

12. Learned trial Court is requested to finally decide Miscellaneous Criminal Case 93/2016 as expeditiously as possible and in any event, within twelve months.

JUDGE

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