

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

31 CRIMINAL WRIT PETITION NO.124 OF 2020

**BABASAHEB S/O. VITTHALRAO GANJE
VERSUS
ANUPAMA W/O. BABASAHEB GANJE**

Ms.Sheetal V. Salunke, Advocate for the petitioner.

Mr.N.B. Jadhav, Advocate for sole respondent.

**CORAM : KISHORE C. SANT, J.
DATED : 01.03.2023**

PC :-

01. Heard learned Advocate for the parties. By consent, the petition is taken up for final disposal.

02. A short issue involved in the matter is about maintenance granted to the respondent under the provisions of the Protection of Women from Domestic Violence Act.

03. The respondent wife had filed Cri. Misc. Application No. 104 of 2013 in the Court of learned JMFC, Tuljapur. The learned JMFC by his order dated 19.09.2016 allowed the application and directed the petitioner to pay to the respondent an amount of Rs.2000/- towards residence order, Rs. 3000/-

towards monthly maintenance and Rs.50,000/- towards compensation. Said order was challenged by the petitioner as well as the respondent. The petitioner, therefore filed PWDV Appeal No.21 of 2016 in the Court of learned Sessions Judge at Osmanabad. The learned Sessions Judge by order dated 27.11.2019 dismissed the appeal and confirmed the order passed by the learned Trial Judge. The petitioner is, therefore, before this Court.

04. The petition is mainly argued on two points. First that there is no proof of marriage of the petitioner and the respondent. Since beginning the petitioner is denying relationship with the respondent. It is therefore submitted that though there are photographs on record to show that there is marriage between the parties, however, from the evidence of photograph it is pointed out that he accepted that photographs can be morphed. It is thus submitted that the photographs may be fabricated. It is further submitted that not a single witness has stated that after the alleged marriage the parties have ever resided together and thus there is no question of having domestic relationship with the respondent. The evidence of son of the petitioner is also read in the Court, who was examined as witness No.5 for the petitioner, who also had denied marriage between the petitioner and the respondent.

05. Second point is in respect of capacity of the petitioner to pay maintenance. It is submitted that wife has not brought anything on record to prove income of the husband. Considering that there is no income proof by the wife, still the Court below has awarded exorbitant amount of Rs.5000/- per month which is huge considering the present day situation.

06. The learned Advocate for the petitioner relied upon judgment in the case of **Rajnish Vs. Neha & Anr. reported in 2021 (2) SCC 324**. She specifically relied upon para 18, wherein the Hon'ble Apex Court has held that while granting maintenance, the Court must have due regard to the standard of living of the husband. Thus, she submits that without any proof of income on record, the Court has granted the amount and therefore it needs to be reduced.

07. On the other hand, the learned Advocate for the respondent opposes the petition stating that the amount of Rs.5000/- cannot be said to be exorbitant in any case. He submits that it is accepted that the petitioner was Sarpanch for some time of the village and thereafter he was also elected as

Up-Sabhapati of Agricultural Produce Market Committee. Considering this it cannot be said that he is from poor family. On the contrary, he is from influential family. Considering this, Rs.5000/- cannot be said to be exorbitant amount having regard to the present day situation.

08. Considering the submissions, this Court finds that the amount granted by the Courts below cannot be said to be exorbitant. This Courts finds that there is no extraordinary case made out to call for interference in the order passed by the Court below. Therefore, the writ petition is dismissed.

[KISHORE C. SANT, J.]