

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 626 OF 2022

EKNATH RAMDHAN RATHOD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr. Kingaonkar Nandkumar Y

APP for Respondent No.1/State : Smt. D. S. Jape

Advocate for Respondent No.2 : Mr. Kiran D. Jadhav

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CORAM : KISHORE C. SANT, J.

DATE : 12th APRIL 2023.

Per Court :

Heard both the parties for sometime.

1. The petition is by husband against whom the respondent no.2 had filed proceeding under the Domestic Violence Act, bearing PWDVA No.198/2015. It is the allegation in the said proceeding that the husband used to suspect her character. He also used to harass the wife. She was beaten up at the hands of husband. He has performed second marriage. The said allegations are denied by the husband. After conclusion of the trial, the learned trial Judge directed to pay Rs.5000/-

towards maintenance of son holding that respondent no.2/wife is in service and she does not require any maintenance. Further the Court was pleased to award Rs.1 Lakh towards compensation to his wife for the domestic violence. Further Rs.39000 was directed to be paid to the wife, which was towards the amount of Scooty purchased by the wife. This order was challenged by the petitioner/husband by filing PWDV Appeal No. 51/2018 in the Court of learned Sessions Judge, Aurangabad. The learned Sessions Judge vide order dated 05.04.2022 was pleased to reject the said appeal. It is against this order, the petitioner has come to this Court.

2. On going through the record, it is seen that the wife had filed the proceeding, seeking various reliefs against the husband. She had prayed for Rs. 20,000/- towards maintenance, Rs.4000/- towards house rent and Rs.10 Lakh towards compensation. She had also prayed for the relief of grant of injunction directing husband not to dispose off the joint family property. She had further prayed for grant of possession of Scooty lying with the husband. She had also sought direction to pay amount of Rs.50,000/- per year and protection order directing the

husband not to harass her.

3. The learned trial Court, after the trial, was pleased to hold that since the wife is already earning, no maintenance was granted to her and other reliefs were granted as stated above. The learned Sessions Judge in appeal has confirmed the same.

4. The learned Advocate for the petitioner argued that there is no evidence to prove incident of domestic violence and it is only the evidence of the wife which is considered by the Court and that is not sufficient. So far as grant of maintenance to the son, he fairly accepts that he has no dispute about the said. However he mainly opposes the grant of compensation and also the amount that granted towards cost of the Scooty of the wife saying that it was purchased from his amount.

5. The learned Advocate for respondent no.2 opposes the petition. He submits that all the questions decided by the Court below are the questions of fact. There is concurrent findings of the fact recorded by both the Courts. He invited attention to paragraph no.15 of the

judgment of the learned Appellate Court, wherein the Appellate Court has recorded that in respect of the domestic violence that took place within four walls can be proved only by the wife as no any other witnesses is expected to such instances.

6. This Court finds that both the Courts have taken reasonable view all the findings are based upon the evidence in respect of factual aspects involved in the matter. This Court finds that since the proceedings were under the Domestic Violence Act, that is under beneficial legislation, this Court need not exercise the jurisdiction by going into minute details of the evidence or otherwise, especially when Court finds that a view taken by both the Courts below is plausible and reasonable view. In view of this, no interference is called for and the petition stands dismissed.

[KISHORE C. SANT, J.]

Najeeb.