

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

CRIMINAL WRIT PETITION NO.621 OF 2023

RAHUL DHONDU MARATHE AND OTHERS
VERSUS
GAUTAMI RAHUL MARATHE (JADHAV)

...

Advocate for Petitioners : Mr. M. V. Bhamre
Advocate for Respondents : Mrs. B. B. Gunjal

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CORAM : R.M. JOSHI, J

DATE : AUGUST 23, 2023

PER COURT :

1. This Petition takes exception to the order dated 08.08.2022 passed by learned JMFC, Dhule in Misc. Criminal Case No. 415/2021 filed on an application under Section 23 of the Protection of Women from Domestic Violence Act (for short '**D.V. Act**') of granting maintenance of Rs. 5,000/- per month to the Respondent herein.

2. Learned Counsel for the Petitioner takes exception to the said order solely on the ground that the Respondent is being directed to pay maintenance of Rs. 8,000/- per month by order dated 03.08.2022 passed by Family Court, Dhule in Petition No. E-31/2021 and without considering the said order, the learned

Magistrate has passed another order of maintenance.

3. Learned Counsel for the Respondent submits that the order passed by learned Magistrate of granting of maintenance to the Respondent is after considering the evidence on record indicating the income of Petitioner herein.

4. There is no dispute about the fact that the Family Court on the basis of the same evidence has directed the Petitioner to pay maintenance of Rs.8,000/- per month in Petition No. E-31/2021. The order passed by Family Court was not brought to the notice of learned JMFC dealing with Misc. Criminal Case No. 415/2021. No doubt, learned Magistrate has power to pass order of maintenance under the provisions of D. V. Act, however, it is incumbent on part of such Court to take into consideration any other order passed by different Forum granting maintenance to the Respondent. It is only after considering the order so passed, further quantum of maintenance, if justified, could be determined. Out of ignorance of the order of Family Court, the impugned order came to be passed. Hence, the same cannot sustain. Hence, this is a fit case wherein

impugned order needs to be set aside.

5. In view of above discussion, the impugned order dated 08.08.2022 passed by learned JMFC, Dhule in Misc. Criminal Case No. 415/2021 is set aside with direction to the learned JMFC to decide the application Exh. 5 afresh having regard to the order passed by learned Family Court, Dhule directing payment of maintenance of Rs. 8,000/- to the Respondent.

6. Petition stands disposed of in aforesaid terms.

(R.M. JOSHI, J.)

Malani