

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

CRIMINAL WRIT PETITION NO. 855 OF 2022

DADASAHEB RAMESH SHIRSATH

VERSUS

YOGITA W/O. DADASAHEB SHIRSATH

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Advocate for Petitioner : Mr. Venjane Tukaram M.

Advocate for Respondent : Mr. Bhosale Mahesh Kalidas

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CORAM : KISHORE C. SANT, J.**DATE : 27th MARCH 2023.****Per Court :**

Heard the parties.

1. This is an application by original respondent/husband in Criminal M.A. bearing P.W.D.V.A. No.43/2020 filed under the Domestic Violence Act. In the said proceeding, the present respondent/wife filed an application below Exhibit-3 praying for interim maintenance. The learned Judicial Magistrate First Class, Kopargaon Dist. Ahmednagar by order dated 12.01.2022 allowed the application and directed the petitioner/husband to pay to the respondent/wife Rs.1500/- towards maintenance and Rs.1500/- towards house rent per month.

2. The learned Advocate for the petitioner submit that thus the amount of Rs.3000/- is exorbitant considering his income. He submits that in fact he is not having any job. Though it is alleged in the application that he is working for the Income Tax Department, however the same is not correct. He submits that in the say he had stated that his parents are doing labour work in the agricultural field. The learned Court below however taken it as the applicant/husband is doing the work of agricultural labour and under that presumption has granted the amount of maintenance. He submits that except bare averment by wife, there is nothing on record to show his income. Thus he prays for quashing of the impugned order granting interim maintenance.

3. The learned Advocate for respondent vehemently opposes the application. He submits that at any rate, the amount cannot be said to be exorbitant. He submits that even assuming that the husband is paid the amount as per minimum wages, still the amount of Rs.3000 cannot be said to be exorbitant. He further submits that the order is only interim order and no final order is yet passed and for this, this Court need not entertain this petition.

4. Considering the above submission and the fact that the petition is only against the interim order that too wherein he is directed to pay total Rs.3000/- per month, this Court finds that no case is made out to call for interference in the order passed by the learned trial Court. This Court therefore finds that the petition deserves to be dismissed and the same is hereby dismissed.

5. The learned Court below is requested to decide the main proceeding as early as possible and preferably within a period of six weeks from today.

[KISHORE C. SANT, J.]

Najeeb.