

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

CRIMINAL WRIT PETITION NO. 1261 OF 2022

Lata Lahanu Sonawane

.. Petitioner

Versus

Lahanu @ Ravi Dnyandeo Sonawane
and others

.. Respondents

Mr. Vilas Giri, Advocate for the Petitioner.

Mr. Akshay H. Bankapur, Advocate a/w Mr. Atul A. Kardile, Advocate
for Respondent Nos. 1 to 3.

CORAM : KISHORE C. SANT, J.

DATED : 06th APRIL, 2023.

P. C. :-

. Heard learned advocates for the parties. Taken up for final disposal by consent of the parties.

2. The only grievance in this petition by the wife/original applicant in the proceeding filed under Protection of Women from Domestic Violence Act (for short “D.V. Act”) is that, the learned Trial Court has not directed to pay sufficient amount towards maintenance, so also the learned Sessions Court.

3. The petitioner filed Criminal M. A. No. 132/2014 under Section 12 of the D.V. Act in the Court of learned J.M.F.C., Kopargaon. The

learned J.M.F.C. by judgment and order dated 06.08.2016 partly allowed the application and directed respondent No. 1 to pay an amount of Rs. 3,000/- per month under Section 20 (d) of the D.V. Act. He was further directed to pay an amount of Rs. 2,000/- towards expenses. So far as respondent Nos. 2 and 3 - father in law and mother in law, their application came to be rejected.

4. The respondent No. 1 thereafter filed Criminal Appeal No. 36/2016 in the Court of learned Sessions Judge at Kopargaon. The learned Additional Sessions Judge-2, Kopargaon by its judgment and order dated 08.04.2019 partly allowed the appeal and reduced the amount of maintenance from Rs. 3,000/- per month to Rs. 2,000/- per month and directed to pay Rs. 5,000/- towards cost of litigation from respondent No. 1.

5. The petitioner is thus before this Court challenging the order passed by the Appellate Court to the extent that the amount of maintenance is reduced to Rs. 2,000/- per month. She has further prayed for maintenance at the rate of Rs. 10,000/- per month from the date of application.

6. Thus, only question remains to be considered is about the income of the respondent-husband. To prove the income of the husband she

has produced 7/12 extract showing that the respondents owned land of 1 Hectare 92 R and from this they are getting handsome income. The learned Trial Court has considered the oral evidence wherein, it has come on record that, the respondent-husband is staying in the house given to him under Gharkul scheme. There is not even a cooking gas or freeze in his house and this fact is admitted by the wife in the cross-examination. Considering that, the amount of maintenance was reduced by the learned Sessions Court though on the same evidence the learned Trial Court has granted Rs. 3,000/- per month.

7. Considering the submissions advanced before the Court and considering the judgment, this Court finds that, considering from any point the amount of Rs. 2,000/- would be too meager amount for lady to survive. There was no compelling reason to reduce the amount of maintenance from Rs. 3,000/- to Rs. 2,000/-. Though the petitioner here has prayed for maintenance at least Rs. 10,000/- per month, however, it is seen that, the order of the learned J.M.F.C. was not challenged by the petitioner by filing an appeal. So, it needs to be considered that, she has accepted the order of the learned J.M.F.C. by not challenging the same in the appeal. This Court therefore finds that, the petition deserves to be partly allowed to the extent of directing the respondent-husband to pay to the petitioner an amount of Rs. 3,000/-

per month from the date of application and Rs. 10,000/- towards cost of litigation since the petitioner is required to fight till this Court.

8. The criminal writ petition is partly allowed.

9. The respondent-husband is directed to pay to the petitioner-wife an amount of maintenance at the rate of Rs. 3,000/- per month from the date of application. The respondent-husband is directed to pay to the petitioner-wife an amount of Rs. 10,000/- towards cost of litigation.

10. With this, the criminal writ petition stands disposed off.

(KISHORE C. SANT, J.)

PS.B.