

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

972 CRIMINAL WRIT PETITION NO.1805 OF 2022

LEENA W/O BHUSHAN PATIL
VERSUS
BHUSHAN SURESH PATIL

...

Advocate for Petitioner : Mr. Ajinkya Reddy appointed
through Legal Aid.

Advocate for Respondents : Mr .Mahesh H. Patil.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 29th AUGUST, 2023

ORDER :-

1. The petitioner takes exception to the order dated 30.9.2022 passed below Exh. 11 in Criminal Appeal No. 42 of 2022 passed by the Additional Sessions Judge, Dhule by which the order granting interim maintenance in favour of the petitioner has been modified.
2. Mr. Reddi, learned advocate for the petitioner would submit that the learned trial court on assessment of the material on record had passed order of interim maintenance in exercise of powers under Section 23 of the Domestic Violence Act, 2005. The respondent was directed to pay interim maintenance of Rs. 20,000/- pm. However, in appeal filed by the respondent husband, the appellate court reduced the maintenance amount to Rs. 15,000/- p.m.
3. By inviting attention of this Court to the impugned order, Mr. Reddi would submit that there is hardly any reason given for reducing the maintenance amount. Therefore, he submits that the order passed by the Sessions Court is perverse and liable to be quashed and set aside.

4. Mr. Patil learned counsel for the respondent vehemently submits that although it is admitted by the petitioner during her cross-examination that the properties described by her in the application are self acquired properties of the parents of the respondent/husband and he has no independent income, still, exponential maintenance has been awarded.

5. He would further submit that in the original proceeding before the learned JMFC, evidence of parties is recorded and matter is at advanced stage. He would therefore urge to direct the trial court to decide the main application expeditiously so that the controversy between the parties can be put at rest.

6. Having considered the submissions advanced, apparently interim orders in maintenance proceeding is assailed in this petition. It would not be appropriate for this court to delve into factual aspects of the matter in exercise of writ jurisdiction to record any finding of fact, particularly, when the parties are litigating at advanced stage in main proceeding before the trial court. Both the learned advocate agree that if this court directs the trial court to conclude the original proceeding within a specified period, no decision on merit is required in the present writ petition. In that view of the matter, the following order is passed :-

ORDER

[i] The learned Judicial Magistrate First Class, Court No.1, Dhule shall endeavour to decide the Cri. Misc. Application No. 310 of 2021 as expeditiously as possible and in any case, within a period of

three months from the date of receipt of writ of this court.

[ii] Parties shall co-operate for early disposal and shall not ask for any adjournment unless exceptional reason is made out.

[iii] Remuneration of the learned counsel appointed be quantified as per Rules, to be paid by the Maharashtra Legal Services Authority, Sub-Committee, Aurangabad.

[v] The learned Magistrate may not grant any adjournment unless exceptional case is made out.

[vi] Criminal writ petition is disposed of in above terms.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-