



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Writ Petition No. 398 of 2023

[Sau Neha Vishant Sonone @ Neha Dipak Tidke ..vs.. Vishant Samadhan Sonone]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M. P. Kariya, Advocate for the petitioner
Mr. A. S. Joshi, Advocate for the respondent

CORAM : ANIL L. PANSARE J.

DATED : 9-10-2023

On 31-8-2023, following order was passed.

“*Heard.*”

2. The learned Counsel for the wife submits that when the application for interim maintenance was filed before the trial court on 6/1/2015, the wife was not working. The learned Counsel has now referred to the paragraph No.9 of the order dated 22/9/2021 passed by the learned Judicial Magistrate First Class, 2nd Court, Khamgaon in PWDV Case No. 3/2015, which reads thus :

“9. Initially the applicant take stand that she has no any source of income. In answer to her claim the respondents submitted that she is getting salary of an amount of Rs.1,00,000/- per month as she is being Manager in HDFC Bank. During the course of proceeding an order passed below Exh.01 on 06.02.2021 and thereby both parties are directed to file affidavit in respect of their Assets and Liabilities as per the directions given by Hon’ble Apex Court in the case of Rajnesh V/s Neha decided in Criminal Appeal No.730/2020. Accordingly applicant and respondent no.1 have filed their affidavits in respect

of their Assets and Liabilities on record. In the said affidavit the applicant and respondent no.1 admits their date of marriage and date of separation which is the same. The applicant admits that she is getting interim maintenance of Rs. 2000/- per month in HMP No. 03/2015. She further submitted that she was obtained vehicle loan and paying EMI of the same of Rs.17,000/- but due to mental and physical illtreatment given by respondents she resigned for her job on 30.06.2016 and said loan is now repaying by her father. Per contra the respondent no.1 is getting salary of Rs.1,16,000/- per month as he is Software Engineer at Pune in Synerzip Company.”

3. *It is, thus, pretty obvious that when the complaint was filed, the wife was working as Manager in HDFC Bank. She has resigned from the job on 30/6/2016. Despite such status, the wife has not disclosed in her pleadings before the Magistrate’s court the crucial fact of she having been in employment. It is further unfortunate that despite knowing such fact, the learned Counsel has argued that when the application under the provisions of Protection of Women from Domestic Violence Act was filed by the wife, she was not working.*

4. *If this being the position, the wife does not deserve any leniency nor relief, and in true sense, neither interim nor final relief, however, I will restrict, for the time being, to the relief which the wife has obtained from the courts below and particularly from the court of the learned Judicial Magistrate First Class by suppressing the material fact.*

5. *It is trite law that the party who approaches the court should come with clean hands. The wife having suppressed crucial fact, has not come with clean hands before the Magistrate's court, and therefore, is not entitled for the interim relief. The aspect of suppression of fact has not been considered by the revisional court, and therefore, the order so passed by the revisional court also requires quashment.*

5. *At this stage, learned Counsel for the wife seeks time to take instructions as regards the date of appointment and the date of designation. The wife shall file affidavit to that effect on the next date.*

6. *Stand over to 5th September, 2023."*

The learned counsel for the petitioner submits that the petitioner was appointed after filing application and resigned prior to passing impugned order. When enquired, learned counsel submits that these facts were brought to the notice of trial Court before passing impugned order. Learned counsel for the respondent, however, submits that the petitioner has not disclosed these facts but was required to do so upon the disclosure made by the respondent before the trial Court that the petitioner has suppressed the material facts.

Thus, misleading statements continued at the hands of the petitioner.

At this stage, learned counsel Mr. M. P. Kariya, on instructions, seeks permission to withdraw the petition. Permission granted, subject

to costs of Rs. 5,000/- to be paid to the High Court Bar Association, Nagpur within seven working days from today.

The writ petition is dismissed as withdrawn in above terms.

(Anil L. Pansare, J.)

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