



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

Criminal Writ Petition No. 532 of 2023

[Sachin S/o Sahadevrao Prabhe ..vs.. Sau. Aruna Sachin Prabhe]

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

Court's or Judge's orders

Mr. Shankar Borkute, Advocate for the petitioner
Mr. D. S. Patil, Advocate for the respondent

CORAM : ANIL L. PANSARE J.

DATED : 5-9-2023

Heard.

2. The challenge is to the order dated 28-6-2023 passed by learned Sessions Judge, Akola in Criminal Appeal No. 137/2022. Learned Sessions Court has dismissed the appeal filed by the petitioner under Section 29 of the Protection of Women from Domestic Violence Act, 2005. The petitioner has challenged the order dated 20-9-2022 passed below Exhibit 17 by learned Judicial Magistrate First Class (Court No. 3), Akola in Criminal Misc. Application No. 1803/2021 thereby granting interim maintenance of Rs. 15,000/- per month to the respondent – wife.

3. Both the Courts below have rendered concurrent finding that the petitioner is duty bound to pay Rs. 15,000/- as interim maintenance to his wife.

4. Learned counsel for the petitioner submits that the son of the petitioner, aged 7 years, is residing with him. That apart, the petitioner has to maintain his parents. When enquired, the learned counsel for the

petitioner submits that the petitioner's father retired from the Police Department as Police Constable. He gets pension. The learned counsel, however, does not know the amount of pension.

5. When enquired, the learned counsel states that the petitioner has not disclosed to the trial Court the amount of pension which the petitioner's father is getting. Thus, the material fact has been suppressed by the petitioner while defending his case. The petitioner's father, though is receiving pension, is shown to be dependent on the petitioner. That apart, in the statement of assets and liabilities, the petitioner has mentioned that the monthly salary after deductions, was Rs. 15,000/-. The salary slip attached with the petition indicates that he is getting net salary to the tune of Rs. 34,500/-. The deductions in the salary have been considered by the trial Court and the first appellate Court. The Courts below have opined that the deductions were for luxurious purpose and accordingly, granted interim maintenance.

6. What transpires is that the petitioner has not disclosed monthly pension receivable to his father. He has made incorrect statement that his father is dependent on him. So is the case as regards his mother, who will otherwise, be dependent on his father. Further incorrect statement is made in statement of assets and liabilities as regards the monthly salary received after deductions.

7. The salary slip indicates that the petitioner is capable of paying the amount of interim maintenance granted to his wife. In the circumstances, there is absolutely no reason to entertain the petition under Article 227 of the Constitution of India. The petition is accordingly dismissed.

(Anil L. Pansare, J.)

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