



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

Criminal Writ Petition No. 740 of 2023

[Pravesh S/o Shivajirao Pawar ..vs.. Kshama W/o Pravesh Pawar]

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

Court's or Judge's orders

Mr. G. M. Batra, Advocate for the petitioner

CORAM : ANIL L. PANSARE J.

DATED : 14-12-2023

The petitioner – husband has challenged the order dated 21-8-2023 passed by the learned Additional Sessions Judge, Chandrapur below Exhibit 5 in Criminal Appeal No. 11/2023. He had filed appeal before the Sessions Court challenging the order dated 30-1-2023 passed by learned Judicial Magistrate First Class, Chandrapur in PWDVA A. No. 65/2022 before the Sessions Court, Chandrapur. The appeal is pending.

2. Having heard learned counsel appearing for the petitioner and having gone through the material placed before me, it appears that learned Magistrate vide order dated 30-1-2023 directed the petitioner/original non-applicant no. 1 to pay maintenance at the rate of Rs. 40,000/- per month to the respondent - original applicant. In addition, learned Magistrate has directed to handover custody of child for two days in a month to the respondent – wife until Summer Vacations.

3. The grievance of the petitioner is as regards the maintenance amount. Accordingly, he had

challenged the order of the trial Court before the Sessions Court under Section 29 of the Protection of Women from Domestic Violence Act. The learned Sessions Court, while granting stay by the impugned order, has directed the petitioner to deposit 50% of amount of the arrears of maintenance before the trial Court within 30 days from the date of order and to continue to deposit Rs. 20,000/- per month until disposal of petition. Thus, in a way, while granting stay, the learned Sessions Court has reduced the amount of maintenance from Rs. 40,000/- to Rs. 20,000/-.

4. During the pendency of petition, it was revealed that the petitioner has not deposited a single pie in terms of the impugned order. Learned counsel for the petitioner sought two weeks time to deposit amount of arrears of maintenance in terms of impugned order passed by the Sessions Court.

5. The petitioner has then deposited Rs. 1,00,000/- before the trial Court but has not deposited the arrears of maintenance. As such, for non-compliance of order passed by this Court, the petition could have been dismissed. Nonetheless I have heard the learned counsel for petitioner and after hearing him, what transpired is that despite sufficient means, the petitioner is reluctant to pay even Rs. 20,000/- per month to his wife.

6. The grievance of the petitioner is that he has no means to pay Rs. 20,000/- per month.

Order passed by the trial Court indicates that the petitioner is living luxurious life. The trial Court has considered various documents which includes the statement of account of the petitioner for the period from 22-1-2011 to 26-7-2022, the income tax statements. The trial Court has noted from the pleadings that there are several instances that occurred during the period from 2010 to 2022 indicating the domestic violence at the hands of petitioner against the respondent. Some of which are, that during the pregnancy, the petitioner neglected the respondent, the petitioner did not attend her when the respondent - wife met with an accident while she was cooking, the petitioner started sleeping in separate room, some ladies garments were found in the gym bag of the petitioner, the petitioner was found chatting late night with other girls, he alone went abroad on couple of occasions etc.

7. The trial Court has also noted that the petitioner is MBA. He owns two flats. He has obtained home loan of Rs. 50,00,000/- in the year 2016. He is paying monthly installment of Rs. 29,488/-. He is paying LIC premium to the tune of Rs. 18,228/- per anum and so on. He has a Jaguar car.

8. The trial Court further noted that the respondent – wife had no means though the petitioner asserted that she is earning Rs. 30,000/- to Rs. 40,000/- per month.

9. While dealing with the present petition, one will have to keep in mind that the appeal filed by the petitioner before the Sessions Court is still pending. The trial Court's findings indicate that the petitioner has sufficient means to pay maintenance. The first appellate Court has stayed the order of trial Court with the directions to deposit 50% of arrears of maintenance i.e. at the rate of Rs. 20,000/- per month and to continue to deposit Rs. 20,000/- per month before the trial Court. This order has been not complied with.

10. Thus it appears that the petitioner has no respect to the Court's order. Considering the conduct of the petitioner and the means available at his disposal to pay maintenance, I do not find any reason to interfere with the impugned order in the writ jurisdiction. There is no merit in the petition. The petition is dismissed.

(Anil L. Pansare, J.)