



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

CRIMINAL WRIT PETITION NO. 1086 OF 2022

Yogesh s/o. Balu Desale,  
Age 34 years, Occu. Agri. And Labour,  
R/o. At Post Kalavadi,  
Tq. Parola, Dist. Jalgaon

.. Petitioner  
(Original respondent)

Versus

1. Sau. Poonam w/o. Yogesh Desale,  
Age 26 years, Occu. Housewife
2. Chi. Sarang s/o. Yogesh Desale,  
Age 7 years, Occu. Education
3. Ku. Manasi d/o. Yogesh Desale,  
Age 5 years, Occu. Education,  
All R/o. C/o. Bhagwatrao Baburao Patil  
Age post Bahute, Tq. Parola,  
District Jalgaon

4. The State of Maharashtra .. Respondents  
( Nos. 1 to 3 Original Applicants)

Mr. Dhananjay A. Naik, Advocate for the Petitioner;  
Mr. Harshal P. Randhir, Advocate for Respondents No.1 to3;  
Mr. S. M. Ganachari, A.P.P. for Respondent No.4

**CORAM : S. G. MEHARE, J.**

**DATE : 26-06-2024**

**PER COURT :-**

1. The petitioner has impugned the order of learned Additional Sessions Judge, Amalner, District Jalgaon, in Criminal Appeal (D.V.Act) No.12 of 2019 dated 30.06.2022, granting *interim* maintenance of Rs.2,000/- each to respondents/original applicants.

2. The *inter-se* relations between the parties is not disputed. Respondents No.1 to 3 had filed proceeding under the Protection of Women from Domestic Violence Act 2005, claiming certain *interim* relief. Learned Judicial Magistrate First Class, Parola did not grant *interim* maintenance. However, he directed the petitioner to allow the respondents No.1 to 3 to stay in the house. Against that order, appeal was preferred before the learned Additional Sessions Judge, Amalner, who allowed the revision. In addition to relief granted by the learned Judicial Magistrate ordered that the petitioner/husband shall pay Rs.2,000/- each per month.

3. The petitioner did not impugn the order of the learned Judicial Magistrate in which the Court has observed that the respondents have *prima facie* case of domestic violence. However, he has impugned the order of learned Additional Sessions Judge, Amalner, granting maintenance of Rs.2,000/- per month.

4. Learned counsel for the petitioner submits that the petitioner has only 2 Acres land and it is a proved fact. Considering the land he possessed and having sufficient source of income, the learned Additional Sessions Judge opined that interim maintenance of Rs.6,000/- per month to the respondents/original applicants is appropriate.

5. Learned Additional Sessions Judge did not appreciate the

evidence correctly and without considering the status of the parties, granted exorbitant maintenance of Rs.2000/- each per month to respondents No.1 to 3. It is practically impossible for the petitioner to pay the interim maintenance. He prayed to quash and set aside the impugned order.

6. Per contra, the learned counsel for the respondents submitted that the petitioner owns 12 Acres of irrigated land. He has a joint family. Only 2 Acre land was shown in the name of the petitioner. There was nothing on record to show that the petitioner was separated by metes and bounds. The respondents were residing in a joint family. Out of the irrigated land, the family gets good income. The petitioner can not take the advantage of having only 2 Acres land in his name. He has share in the irrigated land. He submits that considering the hiking prices of daily needs and source of income, granting interim maintenance of Rs.2,000/- per month each is just and reasonable. The impugned order is free from error. There are no grounds to interfere with.

7. Perused the impugned order.

8. Only question, whether the quantum of maintenance granted by the learned Additional Sessions Judge for maintenance is correct or proper, is to be examined.

9. Admittedly, the petitioner has land in Nashik district. Joint

family has 12 Acres irrigated land. It is not case of the petitioner that he was separated before or after the marriage and his livelihood is dependent only 2 Acres land.

10. There appears a substance in the submission of the learned counsel for the respondents that family was joint, they had sufficient income to live minimum standard of life. Similar are the findings recorded by the learned Additional Sessions Judge. Considering the family background, the jointness of the family and the source of income along with the hike of the prices of the daily needs, no one would disagree with maintenance of Rs.2,000/- per month each, is exorbitant. The children are of growing ages. They are school going. Education, now-a-days, is very expensive.

11. Considering the facts and circumstances of the case and the reasons assigned by the learned Additional Sessions Judge, granting maintenance of Rs.2000/- each to respondents No.1 to 3, the Court is of the view that the impugned order is free from errors. The petitioner has no burden to pay *interim* maintenance of Rs.2,000/- each to respondents No.1 to 3 per month. There is no substance in the petition.

12. Hence, writ petition stands dismissed.

**( S. G. MEHARE )**  
**JUDGE**