



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 CRIMINAL WRIT PETITION NO. 1750 OF 2023

1) Poonam Jitendra Patil
2) Yogendra Jitendra Patil

VERSUS

Jitendra Pandurang Patil

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Advocate for the Petitioners : Mr. Mangesh G. Patil

Advocate for Respondents : Mr. Pramod P. Dhorde

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CORAM : SHIVKUMAR DIGE, J.
DATED : 27th JUNE, 2024.

PER COURT :-

1. By this writ petition, the petitioners have challenged the judgment and order dated 15.9.2023 passed by the learned Additional Sessions Judge, Amalner in Criminal Appeal No.PWDVA No. 1 of 2023.

2. It is the contention of learned counsel for the petitioners that the appellate court has allowed the appeal for enhancement of maintenance amount by modifying the order of the trial court and directed the respondents herein to pay Rs.15,000/- p.m. to petitioner No.1 i.e. wife and Rs.5000/- p.m. to petitioner No.2 i.e. son and the said amount be paid from the date of that order i.e. 15.9.2023. Learned counsel further submitted that the maintenance amount be paid from the date of filing of application before the trial court.

3. It is the contention of learned counsel for the respondent that after filing application for interim maintenance, the petitioners stayed with the respondent for some time. Considering this fact, the trial court has passed the impugned order which is proper and no interference is required in it. Learned counsel further submitted that it is discretion of the Court to decide from which date the applicant is entitled for maintenance amount. The applicants cannot claim the maintenance as of right and from a particular date. Hence, he requested to dismiss the writ petition.

4. I have heard both the learned counsel. It would be apposite to refer to sub-Section (2) of Section 125 of the Code of Criminal Procedure, 1973, which reads as under:-

“(2) Any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of the order, or, if so order, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.”

This section provides that the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of order, of, if so order, from the date of application for

maintenance or interim maintenance. It appears from the record that an application under the provisions of Protection of Women from Domestic Violence Act was filed in the year 2019. After filing of the said application, petitioners stayed with respondent-husband till October, 2020. When the petitioners stayed with the respondent for a particular period after filing of the maintenance application, they are not entitled for interim maintenance for the said period. Hence, I pass the following order:-

O R D E R

I) The writ petition is partly allowed. The order passed by the trial court is modified as under:-

The petitioners are entitled for maintenance amount from the month of October 2020 instead from the date of order i.e. 15.09.2023.

(SHIVKUMAR DIGE, J.)

rlj/