

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 52 OF 2015

Shri. Gangaram Krishna Pauskar
S/o. Shri. Krishna Pauskar,
Aged about 50 years, married,
Bank Officer, resident of H.No.707/2,
Devodxet, Chinchegal, Near LPG Gas
godown, Taki, Xeldem, Quepem, Goa. ... Petitioner

V/s.

- 1] Smt. Pratiksha G. Pauskar alies
Sangeeta Khushali Naik, age 46 years,
w/o. Shri. Gangaram alias Prakash Pauskar,
d/o. late Shri. Khushali Naik.
- 2] Mast. Gaurav Gangaram Pauskar,
s/o. Shri. Gangaram alias Prakash Pauskar,
age 11 years, student, represented through
his mother and Natural Guardian Respondent No.1,
Both residing at H. No.169,
Near Navdurga Temple,
Deulwada, Borim, Ponda, Goa.
- 3] State,
Through Public Prosecutor
High Court of Bombay at Panaji-Goa. ... Respondents.

Mr. A. D. Bhobe, Advocate for the petitioner.

Mr. Gajendra Usgaonkar, Advocate for the respondent No.1

Coram : C. V. BHADANG, J.

Date : 7th July, 2015.

Oral Order :

Heard Mr. Bhobe, the learned advocate for the petitioner and Mr.
G. Usgaonkar, the learned advocate for the respondent No.1.

- 2] The respondent Nos.1 and 2 filed an application under the

Domestic Violence Act, seeking various reliefs including that of maintenance and residential order etc. The respondents had also filed an application Exh.D4 for interim reliefs. By an order dated 3 July 2013 the learned Magistrate had directed the appellant to pay Rs.8,000/- per month to the respondent No.1 and an amount of Rs.10,000/- per month to the respondent No.2. The appellant is also further directed to allow the respondents to reside on the first floor of the matrimonial house and not to indulge into acts of domestic violence. In appeal filed by the appellant, the order insofar as grant of maintenance of Rs.10,000/- to the respondent No.2 is modified and both the respondents are held entitled to an amount of Rs.8,000/- per month each. The rest of the order is confirmed. That is how the appellant is before this Court.

3] It is submitted on behalf of the petitioner that the learned Sessions Judge could not have restrained the appellant from obtaining any loan from any Bank or financial institutions, without consent and permission of the respondent No.1. It is submitted that, neither there is any such provision under the said Act, authorising the Court to pass such order, nor the learned Magistrate had passed any such order. Such an order was not even claimed. Thus, it could not have been passed in an appeal filed by the appellant. It is submitted that though the petitioner has no intention to obtain any such loan at this stage, the order restraining the appellant from availing

any loan, without the permission of the respondent No.1, cannot be sustained.

4] On hearing the learned counsel for the parties, it appears that it is undisputed that the first floor of the shared household, in which the respondent Nos.1 and 2 have been permitted to reside, is already let out. In either case, the said order which is passed as far back as on 3rd July, 2013 is not enforced till today. The learned counsel for the respondent Nos.1 and 2 submits that the respondents are staying in the house of the mother of respondent No.1. He submitted that the appellant also has not regularly paid the amount of maintenance as awarded. It is also submitted that the respondent Nos.1 and 2 are willing to get the main application before the Magistrate decided expeditiously, and at this stage the respondents shall not insist for the order as regards residence.

5] On hearing the learned counsel for the parties, I find that the criminal writ petition can be disposed of in the following terms.

- i) The impugned order granting maintenance of Rs.8,000/- per month to the respondent Nos.1 and 2 as also the order restraining the appellant from indulging into any acts of domestic violence, is hereby confirmed.
- ii) The respondent Nos.1 and 2 shall not insist for the residential order at this stage. This will be subject to the appellant paying the amount of maintenance of Rs.8,000/- per month granted to

each of the respondent Nos.1 and 2 punctually and without any default.

- iii) The arrears of maintenance, if any, shall be cleared by 31st July, 2015.
- iv) Liberty to the respondent Nos.1 and 2 to apply for modification in the event of any default in the matter of payment of maintenance.
- v) The learned Magistrate shall decide the main application as expeditiously as possible and an endeavour shall be made to decide matter finally within a period of six months from toady.
- vi) Parties to co-operate for early disposal of the matter.
- vii) All the rival contentions of the parties including claim of the respondent Nos.1 and 2 for a residential order are expressly kept open.
- viii) The part of the order restraining the appellant from obtaining any further financial assistance without the consent of the respondent No.1, is hereby set aside.
- ix) The writ petition is disposed of in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.