

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINL WRIT PETITION NO. 2424 OF 2015**

Javed Yousuf Memon

Petitioner.

Vs

Ms. Zainad Memon and Anr

.. Respondents

Mr.R.A.Shaikh, Advocate for Petitioner.

Mr.M.A.Patel, Advocate for respondent no.1

Ms. R.V.Newton, A.P.P for Respondent no.2.

CORAM : R.G.KETKAR,J.

DATE : 20/08/2015

PC:

1. Heard Mr. R.A.Shaikh, learned counsel for the petitioner, Mr M.A.Patel, learned counsel for respondent no.1 and Ms.R.V.Newton, learned A.P.P. for respondent no.2 at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner-husband has challenged the Judgment and order dated 18.4.2013 passed by the learned Metropolitan Magistrate, 66th Court, Andheri, Mumbai below Exhibit-3 in C.C.No.13/DV/2012 as also the Judgment and order dated 14.3.2014 passed by the learned Addl. Sessions Judge, Greater Bombay in Criminal Appeal No.380 of 2013. By these orders, the Courts below directed the petitioner-husband to pay Rs. 25,000/- per month to the first respondent and children towards maintenance from the date of application till further orders. The petitioner is also directed to pay Rs.8000/- per month to the first

respondent towards the medical expenses of daughter Sana from the date of application till further orders.

3. Mr. Shaikh submitted that the petitioner was earlier employed in Saudi Arabia and is presently unemployed. Respondent no.1 is residing in flat at Jogeshwari and other flat was given on leave and licence basis. Respondent no.1 was getting Rs.7000/- per month as licence fee. Respondent no.1, however, sold the said flat.

4. On the other hand, Mr. Patel submitted that the flat stands in the name of respondent no.1 and she has sold that flat. In other words, he submitted that the petitioner is not owner of the said flat.

5. It is common ground between the parties that the petitioner has filed application under section 25(2) of the Protection of Women from Domestic Violence Act, 2005 (for short, 'Act') for alteration/revocation of the order dated 18.4.2013. Mr. Shaikh states that the petitioner is present in the court. He has tendered photostat copy of Permanent Account Number AHDPM9115G which is taken on record and marked "X" for identification. Upon taking instructions from the petitioner, Mr. Shaikh states that without prejudice to the rights and contentions of the petitioner in the application under section 25(2) of the Act as also any other proceedings, the petitioner will comply clause (3) of operative part of the order dated 18.4.2013. He further

submits that the petitioner is not pressing this petition if direction is given to the learned Metropolitan Magistrate to dispose of the proceedings under section 25(2) of the Act in a time bound manner.

6. In view thereof, on the Motion made by Mr. Shaikh, Petition is allowed to be withdrawn. All the contentions on merits are expressly kept open. If the petitioner takes out application for disposal of the proceedings under section 25(2) of the Act in a time bound manner, the learned Magistrate will pass appropriate orders. Order accordingly.

(R.G.KETKAR, J.)