

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

REVISION APPLICATION NO.413 OF 2014

Smt. Ria Sushanta Bhattacharjee .. Applicant
-Versus-
Sushanto Sanjeeb Bhattacharjee & Anr. .. Respondents

Ms.Anjali Patil for applicant
Mr.V.B.K.Deshmukh, APP for State.

CORAM : M.L.TAHILIYANI, J.

DATE : 21st January 2015.

P.C.

1] This revision application arises out of the interim order passed by the learned Additional Sessions Judge, Kalyan, below Exh.4 for Criminal Appeal No.24 of 2014. The said criminal appeal had arisen out of the order passed by the learned Judicial Magistrate, First Class Ulhasnagar on 9th October 2014 in Misc.Application No.5 of 2014 below Exh.5.

2] The applicant has filed an application for grant of certain reliefs under Protection of Women from Domestic Violence Act against the respondent. The respondent is husband of the

applicant. During the pendency of the said application, the order referred hereinabove was passed by the Magistrate and he granted interim maintainance of Rs.5000/- to the applicant to be paid by the respondent. The respondent No.1 moved the sessions court in appeal. The appeal is pending. However, the interim maintainance is reduced from Rs.5,000/- to Rs.4,000/-. I have gone through the impugned order passed by the learned Additional Sessions Judge. The learned Additional Sessions Judge has not recorded any reason for reducing the amount from Rs.5,000/- to Rs.4,000/-. The reasons recorded by the Additional Sessions Judge can be reproduced as under:-

“At this stage, considering the grounds put forthwith and submissions made before me, following directions and order would suffice the purpose. Hence, I pass the following order:-

- (1) The application Exh.4 is partly allowed;
- (2) The stay to the proceeding is granted on the condition that the appellant shall pay Rs.4000/- per month to the respondent/ wife without fail until further order and shall pay entire arrears as on today within 15 days;”

3] It is thus clear that the learned Additional Sessions Judge has not taken into consideration the income of the respondent and the

difficulties of the applicant. The order, therefore, needs to be set aside. Hence, I pass the following order:-

(a) The order passed by the Additional Sessions Judge in Criminal Appeal No.24 of 2014 below Exh.4 is set aside;

(b) The order passed by the learned Magistrate in Misc.Application No.5 of 2014 below Exh.5 is restored.

(c) Revision application is disposed of accordingly.

(M.L.TAHILIYANI, J.)