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

CRIMINAL REVISION APPLICATION NO. 95 OF 2015

Feroz Bagwan s/o Mahemood Bagwan,
Age: 27 years, Occu: Business,
R/o. Chaudhari Mohalla, Paithan,
Tq. Paithan, Dist. Aurangabad

..APPLICANT

VERSUS

1. Safina w/o Feroz Bagwan,
Age: 22 years, Occu: Household,
C/o. Husain s/o Ratan Bagwan,
R/o. Galli No. 12-A, Sanjaynagar,
Bayajipura, Aurangabad

2. Joya d/o Feroz Bagwan,
Age: 3 years (Minor),
Through Resp. No. 1

..RESPONDENTS

Mr M. M. Chaudhari, Advocate for applicant;
Mr A. T. Patel, Advocate for respondents

**WITH
CRIMINAL APPLICATION NO. 887 OF 2016
IN
CRIMINAL REVISION APPLICATION NO. 95 OF 2015**

1. Safina w/o Feroz Bagwan,
Age: 22 years, Occu: Household,
C/o. Hussain s/o Ratan Bagwan,
R/o. Galli No. 12-A, Sanjaynagar,
Baijipura, Tq. & Dist. Aurangabad

2. Joya d/o Feroz Bagwan,
Age: 3 years (Minor),
U/g. of present applicant mother

..APPLICANTS

VERSUS

Feroz Bagwan s/o Mahemood Bagwan,
Age: 27 years, Occu: Business,
R/o. Chaudhari Mohalla, Paithan,
Tq. Paithan, Dist. Aurangabad

..RESPONDENT

(2)

Mr A. T. Patel, Advocate for applicants;
Mr M. M. Chaudhari, Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 26th August, 2016

ORAL ORDER :

While questioning the order dated 26th November, 2014, passed by learned Principal Judge, Family Court, Aurangabad in petition No. E-208 of 2013, ordering payment of maintenance of Rs. 5,000/- and Rs. 2,000/- per month to the respondents, in view of provisions of section 125 of the Code of Criminal Procedure, w.e.f. from 21st September, 2013, learned Counsel appearing on behalf of the petitioner-husband would urge that apart from the limited source of income of the petitioner, the order impugned is passed without giving him an opportunity to defend the case. He would then urge that the amount of maintenance as ordered is exorbitant. Under the provisions of Protection of Women from Domestic Violence Act, 2005, the petitioner was already ordered to pay amount of Rs. 2,000/- and Rs. 1,000/- respectively to the respondents towards maintenance and Rs. 12,000/- towards rent. As such, according to him, if the quantum of maintenance under both these order is taken into account, the applicant is ordered to pay an amount of Rs. 11,200/- p.m. to the respondents -wife and daughter.

2. Admittedly, the fact remains that the applicant has questioned order passed in proceedings under the provisions of Protection of Women from Domestic Violence Act before the Court below in an appeal and a

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categorical statement is made by both the parties, pursuant to the query of the Court that the applicant has not paid any amount under D.V. Act proceedings.

3. Apart from above, the basis as is formed for payment of maintenance by the Family Court appears to be that the applicant is doing the business of selling fruits and is earning substantial amount. It is also brought to the notice of this Court vide Exh. 14 on 12th December, 2011 that the applicant had purchased fruits worth Rs. 13,700/- from a firm at New Mumbai, which fact is not disputed.

4. Upon perusal of the orders passed by Family Court under Code of Criminal Procedure and that of by Magistrate under the D.V. Act, it is noted that the applicant-husband is in habit of avoiding the Court proceedings as is not pursuing the same seriously. Though the applicant has tried to blame the lawyer engaged by him that he had not represented his case appropriately before the Family Court, even if it is assumed that there is a fault on the part of lawyer, the applicant has not issued any notice or letter to such lawyer, at least no such communication is brought on record before this Court.

5. In view of above, in my opinion, no case for indulgence, particularly in the order of maintenance is made out.

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6. So far as quantum of maintenance is concerned, taking into consideration the business carried out by the applicant and the fact that in D. V. Act proceedings, there is an order against the applicant to pay maintenance, in my opinion, it will be appropriate to reduce the quantum of maintenance from Rs. 5,000/- to Rs. 3,500/- to payable from 21st September, 2013, whereas the amount of maintenance ordered to be paid to the daughter shall remain unchanged.

7. Respondents shall be at liberty to withdraw the amount deposited in this Court.

With above observations, Criminal Revision Application as also Criminal Application No. 887 of 2016 stand disposed of.

(N.W. SAMBRE, J.)

amj