

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 160 OF 2015

MR.JOAO FRANCISCO DE SOUZA. ... Petitioner
Versus
MRS.MARIA GORETTI RITA SOUZA AND
ANR., ... Respondents

Mr. Aldrin Monteiro, Advocate for the petitioner.

Coram:- C. V. BHADANG, J.

Date:- 14th March, 2016

P.C.

Heard the learned Counsel for the petitioner for some time.

2. The petitioner is the original opponent/ husband. The respondent no.1 had filed an application under Section 12 of the Domestic Violence Act (the Act, for short) seeking various reliefs under Sections 18 and 19 of the said Act.

3. It appears that the learned Magistrate had initially granted ad interim ex-parte order on 19/03/2013 granting reliefs in terms of prayer clauses (a),(b),(d),(e),(f),(g),(i) and (k) of the application. It further appears that the petitioner sought vacation of the said order by filing a reply. The learned Magistrate, by the impugned order dated 19/10/2015, refused to modify the ad interim ex-parte order. The net result being that the ad interim order was confirmed. The petitioner

challenged the said order in a Criminal Revision Application No.5/2014 before the learned Sessions Judge at Mapusa. The learned Sessions Judge, by a judgment and order dated 09/07/2015, has dismissed the Revision Application. Feeling aggrieved, the petitioner is before this Court.

4. It is submitted by the learned Counsel for the petitioner that the respondent no.1 has in her possession a flat apart from the house which is subject matter of dispute in the present petition. It is also submitted that the respondent no.1 is mostly staying abroad and has also kept the petitioner out of the house which is subject matter of dispute. It is also submitted that the petitioner has no place to stay, as a result of which, he is compelled to stay with his married sister. It is submitted that although the main application is part heard, in which the respondent no.1 is under cross-examination, the respondent no.1 is not expeditiously proceeding with the application, as a result of which, the interim order is operating to the prejudice of the petitioner.

5. With the assistance of the learned Counsel for the petitioner, I have perused the impugned order as also the order passed by the Revisional Court. At this stage, it appears that no case was made out that the petitioner was compelled to stay with his married sister. That apart, the interim order is operating since 19/03/2013 and the main application before the learned Magistrate is also part heard. In such circumstances, the learned Counsel for the petitioner alternately

submits that the main application may be expedited. Subject to this, the learned Counsel for the petitioner, on instructions from the petitioner, who is present before the Court, seeks permission to withdraw the petition.

6. In such circumstances, the petition is disposed of as withdrawn. The learned Magistrate shall proceed to decide the main application as expeditiously as possible and preferably within a period of four months from today. Parties to co-operate for early disposal of the application. All the contentions of the parties on merits are expressly kept open.

C. V. BHADANG, J.

SMA