

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PWETITION NO.441 OF 2016

Manish Sunil Khare	]	
age: 30 yrs, Occn. Service	]	<u>Petitioner</u>
Husband of Mrs. Trupti Khare	]	(original
Indian inhabitant of Mumbai	]	appellant
residing at: C/19, 2 nd floor, Nav Yashodhara	]	
Society, Bhandup (East), Mumbai 400 01.	]	

Versus

1. The State of Maharashtra	]	
	]	
2. Mrs. Trupti Manish Khare	]	
age: 27 yrs. Occn. Service	]	
r/o room No.3, RH More Chawl, Bharat Nagar	]	
Opp. Building No.2, Tagore Nagar, Vikroli	]	
(East) Mumbai 400 083	]	
	]	<u>.. Respondents</u>
3. Mrs. Vandana Sunil Khare	]	(Respondent
age: 55 yrs, occn. Housewife	]	No.2 original
	]	complainant)
4. Mrs. Sunil Hiranman Khare	]	
age: 59 years, Occn. Service	]	
	]	
5. Ms. Yogita Sunil Khare	]	
age: 25 years, Occn. Student.	]	
	]	
Nos to 3 r/o C-19, 2 nd floor, Nav Yashodhara	]	
Society, Bhandup (East), Mumbai 400 01.	]	

Mrs. Zulekha Sayed i/by Ratna Jaiswal, for the petitioner.
 Mrs. V.R. Bhonsale, APP for the Respondent State.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 17TH FEBRUARY 2016.

Oral Order. :

1. The petitioner has preferred this writ petition, challenging the judgment and order dated 8.1.2016, passed by the Additional Sessions Judge, Greater Bombay in Criminal Appeal 861 of 2015, thereby confirming the order passed by Metropolitan Magistrate, 53rd Court, Mulund, dated 27.08.2015, directing the petitioner to pay an amount of Rs.4,000/- per month to the respondent from the date of application towards rent or in alternative to make necessary arrangement for the residence of the respondent wife within one month from the date of the order.

2. The submission of learned counsel for the petitioner is that respondent has hardly resided with the petitioner. There was absolutely no substance in her contention that she was subjected to domestic violence. Further it is submitted that respondent is well educated and a working woman. She is working in M/s Reliance Company and getting her own salary. Therefore, she cannot be entitled for any amount towards rent or even for alternate accommodation.

3. However, the perusal of the impugned order, passed by the trial Court and confirmed by the appellate Court reveals that there are

sufficient allegations in the application filed by respondent before the trial Court; under the provisions of Protection of Women from the Domestic Violence Act, 2005, to spell out her case that after her marriage with the petitioner on 5.1.2014, and during her cohabitation with the petitioner at Nav Yashodhara Society, Bhandup (E), she was made to suffer various cruelties at the hands of petitioner and his family members. They were constantly harassing her and taunting her. She was also physically abused by the petitioner. Her salary was snatched. In the light of these prima facie allegations of domestic violence, the trial Court has considered her application for interim relief, filed under Section 23(2) of the Act and held that she is entitled to reside separately from the present petitioner and accordingly trial Court allowed her an amount of Rs.4,000/- per month towards rent.

4. The impugned order of the trial Court and appellate Court further reveals that both the Courts have considered the fact that respondent wife is educated and a working woman and accordingly no amount of maintenance was granted to her, but the trial Court and appellate court also found that she is having salary in the range of Rs.10,000/- to 20,000/-per month only by doing service in Reliance company; whereas the present petitioner is getting salary of Rs.40,000/- to 44,000/- per month. Both the Courts have also considered the

responsibility and liability of the petitioner towards his parents who are heart patients and towards his unmarried sisters and accordingly after considering all the facts and contentions raised by both the parties, trial Court has passed order directing the petitioner to pay rent of Rs.4,000/- per month to his wife from the date of application or in alternative to make necessary arrangement of her residence which order is confirmed by the Appellate Court.

5. Thus, on perusal of the impugned order of the trial Court which is confirmed by the Appellate Court, I do not find any illegality, much less perversity, so as to warrant interference therein. Moreover, it is pertinent to note that the said order is purely interim in nature. In case of any change of circumstance or petitioner coming across any material towards respondent wife being provided with accommodation by Slum Rehabilitation Authority as alleged, the petitioner can very well move trial Court for modification of order, but in the absence of any such evidence or material on record, I do not find any reason to interfere in the said order. The petition, therefore, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]