

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 909 OF 2015

Evelyn Pacifico Gonsalves

... Petitioner

vs.

Eleanor Evelyn Gonsalves and anr.

... Respondents

Mr. Dilip Shukla, Advocate for the petitioner.

Ms. Ghazala Khan, Advocate for respondent No.1.

Mr. A. Malhotra, Additional Public Prosecutor for the State.

Coram : Smt. R. P. SondurBaldota, J.

Date : 3rd February, 2016.

P. C. :

1. This writ petition is directed against the order dated 13th February, 2015 passed by the Sessions Court allowing the Criminal Appeal No.738 of 2013 and setting aside the orders of the trial Court below exhibit Nos.10 and 21 and remanding those applications for fresh hearing before the trial Court. In the meantime, the petitioner is directed to pay maintenance to respondent No.1 at the rate of 10,000/- per month from the date of the application at exhibit 10.

2. The two grievances made by the petitioner against the order of the trial Court before the Sessions Court were of fixing up of an excessive amount of maintenance and denial of reasonable

opportunity of hearing. The Appellate Court accepted both the contentions and has remanded the matter for fresh hearing after giving the opportunity of hearing to the petitioner. This part of the order could not have been and is not challenged by the petitioner in the petition. The objection is to that part of the order which fixes up ad-interim maintenance amount of Rs.10,000/- per month to respondent No.1. Considering the fact that the trial Court had awarded maintenance at the rate of Rs.20,000/- per month, it cannot be said that the ad-interim order directing payment of Rs.10,000/- per month is so gross or erroneous that it requires interference by this Court. Thus there is no substance in the challenge to the impugned order. Hence, the petition is dismissed.

3. Pursuant to the order passed by this Court, the petitioner has deposited a sum of Rs.1,90,000/- in this Court towards the arrears of maintenance payable to respondent No.1. There is also an order directing respondent No.1 to withdraw the amount. Ms. Khan, the learned advocate appearing for respondent No.1 has expressed a difficulty in the actual withdrawal. She states that respondent No.1 has changed the name in which she holds bank account from the name after the marriage to her maiden name. She tenders certificate issued by

HDFC Bank Ltd. to that effect. The office is, therefore, directed to permit respondent No.1 to withdraw the amount in her maiden name i.e. Eleanor Valerie Miranda. The xerox copy of the certificate is taken on file and marked "X" for identification.

[Smt. R. P. SondurBaldota, J.]