

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL WRIT PETITION NO. 1451 OF 2015

Mr. Sheetal Dattatray Shesware

.....Petitioner

V/s.

Mrs. Reshma Sheetal Shesware and another

....Respondents

Mr. Vikee Yelve Advocate for Petitioner.

Mrs. A. A. Mane APP for the State.

CORAM : RAVINDRA V. GHUGE, J.

DATED : JULY 15, 2016.

PC :

1) The Petitioner is aggrieved by the order dated 28/03/2012 passed by the learned Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai by which, application filed by Respondent no. 1 has been partly allowed and the Petitioner is directed to pay Rs. 2000/- (Rs. Two Thousand) towards rent allowance so as to sustain the separate accommodation of the wife.

2) The grievance of the Petitioner is that the impugned order is unsustainable, considering the fact that the Respondent/Wife resides with her parents. It is further submitted that she is an earning lady on account of her employment. These aspects were not considered by the Court below and despite the same, the impugned order has been passed.

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3) The Petitioner relies upon the order dated 22/01/2014 delivered by the 6th Family Court, Mumbai at Bandra, by which interim application no. 145 of 2013 in Petition No. A 2452 of 2012 filed by the wife seeking interim maintenance, has been rejected. The contention is that the rejection of the said application should therefore lead to the rejection of the prayer made by the wife under the Protection of Women from Domestic Violence Act, 2005.

4) Having considered the submissions of the learned Advocate for the Petitioner, I have gone through petition/paper-book with his assistance.

5) The Family Court has rejected the application for interim maintenance vide order dated 22/01/2014 for the reason that the wife could not establish the employment details of the Petitioner/Husband. It was also noted that since the wife has been granted Rs. 2000/- (Rs. Two Thousand) per month, by an order dated 28/03/2012 (which is impugned in this petition), no further maintenance at the interim stage is required to be granted.

6) It cannot be ignored that the impugned order is dated 28/03/2012. The Family Court rejected the application of the wife on 22/01/2014, primarily on the ground that she has already been granted maintenance of Rs. 2000/- (Rs. Two Thousand) by the order dated 28/03/2012. Thereafter, the Petitioner has

filed this petition on 25/04/2015.

7) In the light of the above, it is clear that the Petitioner has now challenged the order dated 28/03/2012 and on account of the said order, the application for interim maintenance of the wife has been rejected. Now the petitioner is before this court seeking quashing of the Order dated 28/03/2012. I find this petition to be frivolous and vexatious.

8) Notwithstanding the above, the learned Advocate for the Petitioner makes a statement on instructions from the Petitioner who is present in the court that his gross monthly salary is about Rs. 18,000/- (Rs. Eighteen Thousand).

9) In the light of the above I do not find that the impugned order could be termed as being perverse or erroneous so as to invoke the supervisory jurisdiction of this Court.

10) This petition being devoid of merit is therefore dismissed.

11) No costs.

(RAVINDRA V. GHUGE, J.)