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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1953 OF 2015.

1. Mr. Prasad Janardan Kurade,	]	
age: 28 years, Occn. Business,	]	
	]	
2. Mr. Janardan Dhondiba Kurade	]	
age: 52 years, occ.n. Business	]	.. Petitioners
	]	(Original
3. Mrs. Rukhmini Janardan Kurade,	]	respondents)
age: 45 years, Occn. Business	]	
petitioner Nos 1 to 3 r/o at 709/710	]	
Kumthekar Road	]	
Sadashiv Peth, Pune 411 030	]	

V/s.

1. Mrs. Nikita Prasad Kurade	]	
age: 26 years, Occn. Housewife	]	
	]	
2. Master Avinash Prasad Kurade	]	Respondents.
age: 9 months	]	(Respondent
	]	Nos 1 to 3
3. Master Ishant Prasad Kurade	]	Original
age: 9 months	]	petitioners.)
respondent Nos 2 & 3 minor, through their	]	
legal guardian No.1	]	
Residing at : 35/1, A Type	]	
sector 13, New Panvel, Dist. Raigad	]	
	]	
4. State of Maharashtra	]	

Mr. R.S. Apte, Senior Advocate, a/w Mr. Ketan Dhavale, I/by Mandar Limay, for the Petitioners.
Mr. R.B. Parab, for respondent Nos 1 to 3.
Mr. H. S. Yadav,APP for the Respondent State.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 13th JANUARY, 2016.

ORAL JUDGMENT: (PER: DR. SHALINI PHANSALKAR-JOSHI, J]

1. By this petition, original respondents are challenging the order passed by the trial Court and confirmed by the Appellate Court, directing them to produce copies of the documents of Sales-Tax and Income Tax, in respect of their business firms, as prayed by the original applicant vide her Application Exh.11.

2. It is submitted by learned counsel for the petitioners that the application filed by respondent wife before trial Court at Exh.11 was itself vague. The marriage has taken place in the year 2012. But the Income Tax assessment returns are called from the year 2010-11. It I is also not stated in the application as to how these documents are relevant. Moreover, respondent wife, at the most, can ask for documents relating to income tax of the respondent No.1, her husband, but not the documents pertaining to the income of respondent Nos 2 & 3. It is

further submitted that the procedure applicable for proceeding under Domestic Violence Act, as per section 28 of the Act is laid down in Code of Criminal Procedure and there is no provision in the Code of Criminal Code, to call upon opposite party to produce documents. Lastly, it is submitted that the relevancy of documents is neither explained nor it is stated what efforts were made by the applicant wife to secure copies of those documents. Hence according to learned counsel for petitioners, the impugned order passed by the trial Court and confirmed by the Appellate Court is required to be quashed and set aside.

3. Per contra, learned counsel for respondent wife has submitted that after the impugned order was passed, the present petitioners have sought time before the trial Court, for production of those documents on the grounds that they are in possession of C.A. In such circumstances when the petitioner has submitted himself to the said order, there is no question of raising challenge. It is submitted that these documents are relevant for the purpose of deciding financial status of the petitioner No.1 husband and his family. Respondent wife cannot get those documents as they are in possession of the petitioner No.1 and his family. Moreover, the impugned order, passed by the trial Court directing petitioner to produce those documents, according to learned

counsel for respondent, is not only interlocutory but legal and correct, hence no interference is warranted therein.

4. As regards procedure it is submitted that Section 28 sub clause (2) of the Domestic Violence Act, gives liberty and discretion to the Magistrate to have his own procedure and therefore, it is not necessary that the procedure laid down in Criminal Procedure Code only should be followed.

5. I have given my thoughtful consideration to the submissions advanced at bar and also perused the impugned order passed by the trial Court and confirmed by the Appellate Court. It is true that the application filed by the respondent wife before trial Court is somewhat vague. The relevancy of the documents which are sought, is not explained, but at the same time if one has regard to the nature of documents which are sought to be produced, those pertain to Sales Tax and Income Tax Returns of the business of the present petitioners. Needless to say that as the proceedings are under Domestic Violence Act and respondent wife is claiming various reliefs therein including that of maintenance and also provision for residence, in order to decide the quantum of maintenance, these documents are helpful not only to the respondent wife, but also to the court as they will depict financial status

of the petitioners' family. Therefore, relevancy of these documents cannot be disputed even if not expressly pleaded.

6. It may be true that petitioner No.1 being husband is alone liable to provide maintenance to respondent wife, but even the financial position of his parents and his family as such is required to be taken into consideration for deciding the quantum of maintenance. If the petitioner No.1 and his family is having several businesses and income therefrom, then, production of income tax and Sales Tax returns of his businesses will be relevant for assessing the quantum of maintenance and other reliefs like provision of residence or compensation as may be asked by the respondent wife.

7. As regards the procedure, section 28(2) of the Domestic Violence Act, makes it clear that the procedure has to be liberal and not necessarily the one as prescribed by the provisions of Code of Criminal Procedure and therefore, that cannot come in the way of the trial Court in arriving at just and proper decision of the case and for that purpose directing the petitioners to produce documents. The order passed by the trial Court also makes it clear that the petitioners are directed to produce copies of documents of Sales Tax and Income Tax Returns in respect of “their business firms”, therefore, it is not necessary that the petitioners

should produce all the documents, as prayed in the application with this clarification, in my considered opinion, no interference is warranted in the impugned order of the trial court. Hence Writ Petition stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

C E R T I F I C A T E

Certified to be true and correct copy of the original signed judgment.