

FARAD CONTINUATION SHEET No.  
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL APPLICATION NO.1261 OF 2015**  
**WITH**  
**CRIMINAL APPLICATION NO.226 OF 2016**

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| Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders |
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Mr. Rajesh Bindra for the Applicant.  
Smt.R.V.Newton, APP for the State.  
Mr.H.N. Mirashi for Respondent No.1.

**CORAM : A.S.GADKARI, J.**  
**DATE : 29th March, 2016**

P.C.

This is an application under Section 482 of the Cr.P.C. thereby challenging the interlocutory order dated 20.4.2015 passed by the Metropolitan Magistrate, 61st Court, Kurla, Mumbai granting interim maintenance to respondent No.1 under Section 23 of the Domestic Violence Act and the Judgment and order dated 23.10.2015 passed by the Additional Sessions Judge, Greater Mumbai in Criminal Appeal No.811 of 2015 confirming the order dated 20.4.2015 passed by the Trial Court.

2) The applicant is the husband. The respondent No.1-wife filed application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter the 'said Act' for brevity) bearing CC No.21/DV/2013 in the Court of Metropolitan Magistrate,

61st Court, Kurla, Mumbai for reliefs under Sections 18,19,20,21,22 of the said Act. The respondent No.1 wife also filed application under Section 23 of the said Act for interim maintenance from the applicant herein. The learned Trial Court after hearing the parties and after perusing the record granted maintenance of Rs.7000/- per month as interim maintenance till the final disposal of the main application by its order dated 30.4.2015. The learned Trial Court while granting the said maintenance has held that the applicant herein is an employee with Mumbai Municipal Corporation and is earning Rs.30,000/- by way of salary per month. It is further observed that the applicant herein is residing separately from other family members. The Trial Court also observed that respondent No.1 herein is unable to maintain herself and her son and the applicant has refused to maintain them though having sufficient means. The learned Additional Sessions Judge while dismissing the appeal has held that the applicant has not made out any ground for non producing the original salary slip before the Trial Court or the Appellate Court. The Appellate Court has also held that it was prima facie made out that the applicant herein was getting salary of Rs.30,000/- per month and in the circumstances amount of Rs.7000/- granted by the Trial Court collectively, cannot be said to be exorbitant.

3) The learned counsel for the applicant submitted that as a matter of fact the applicant is getting net amount of Rs.6800 to 7000/- p.m. and therefore, the amount awarded by the Trial Court as monthly maintenance is certainly exorbitant. I have perused the record and it is to be noted here that the Salary slip at Page 49 to

the present application discloses that an amount of Rs.13473/- is being deducted towards the monthly installment of the loan taken by the applicant from the credit society and after deducting that amount the applicant is getting an amount of Rs.6057/- as net monthly income. It prima facie appears that with a view to deprive the legitimate right of respondent No.1 wife the applicant has taken the said loan and the amount of Rs.13473/- is being shown to have been deducted from his net salary. If the said amount of Rs.13473/- is added to the net income of the applicant, then applicant is earning Rs.20,000/- per month as monthly salary. It is not disputed that as of today, after the interim order passed by the Trial Court on 20.4.2015, the applicant is in arrears of about Rs.1,70,000/- till date. The present application is filed against the interlocutory order passed by the Trial Court. Even otherwise, according to the salary slip the monthly income of the applicant is not less than Rs.20,000/- per month. In the circumstances, the interim maintenance granted by the Trial Court at the rate of Rs.7000/- per month cannot be said to be either excessive or exorbitant. I find no substance in the present application and the same is accordingly dismissed.

4) Since the main application is dismissed, the Criminal Application No.226/2016 does not survive and the same is also disposed off.

**(A.S. GADKARI, J.)**