

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.49 OF 2016

IN

CRIMINAL REVISION APPLICATION NO.2 OF 2015

MRS.SONIA S. KHANDELWAL)...APPLICANT

IN THE MATTER BETWEEN

SUNIL S. KHANDELWAL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ANR.)...RESPONDENTS

Mr.Radhikesh Uttarwar, Advocate for the Applicant.

Mr.U.S.Jain a/w. Mr.Swapnil Narkar, Advocate for Respondent No.2.

Ms.A.A.Takalkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 3rd FEBRUARY 2017

P.C. :

1 In the revision petition filed by original respondent no.1 / husband (hereinafter referred to as respondent no.1/ husband), this is an application by an aggrieved person / wife i.e.

respondent no.2 in the revision petition claiming following reliefs :

- 1) That the present Miscellaneous Application may kindly be allowed.
- 2) That, the amount of Rs.5,00,000/- (Rupees Five Lakhs Only) may kindly be allowed to be withdrawn by Order dtd.19/08/2015.
- 3) That, Respondent may kindly be directed to deposit outstanding maintenance of Rs.33,00,000/-.
- 4) That, the Order dtd.19/08/2015 may kindly be vacated.
- 5) Any other just and equitable Order may kindly be passed in the interest of justice.

2 Heard learned advocate appearing for respondent no.2 / an aggrieved person / wife / original applicant (hereinafter referred to as an aggrieved person / wife). He vehemently argued that two courts have granted maintenance to the aggrieved person and she is supposed to maintain a young child. She is totally dependent on her mother. Apart from her maintenance, she requires funds for educational expenses of her young child. The

learned advocate further argued that disposal of revision petition will take its own time and it is well settled position that maintenance awarded cannot be stayed and if it is required to be stayed, then such order is required to be passed with due care and circumspection. In submission of learned advocate appearing for an aggrieved person / wife, infact, stay is granted as an interim arrangement without hearing the parties in order to enable this court to dispose of revision petition expeditiously but it is not taken up for final hearing.

3 As against this, on behalf of revision petitioner / original respondent no.1 / husband, it is argued that the husband is required to maintain his two sons and marriage of original respondent no.1 / husband was not an arranged marriage. They married through Bharat Matrimonial site. By drawing my attention to paragraph 3 of reply of original respondent no.1 / husband, it is argued that the aggrieved person / wife was permitted to withdraw an amount of Rs.5,00,000/- and it was decided that on the next date of hearing, further withdrawal of

remaining amount was to be considered. It is argued that on 20th August 2015 itself, Criminal Application bearing no.297 of 2015 filed by an aggrieved person / wife came to be decided and it was directed that said application shall form part of the revision petition itself. My attention is also drawn to the said order wherein it is recorded that the learned advocates for the applicant (an aggrieved person), upon instructions, sought liberty to withdraw that application. With this, it is argued that the present application is claiming similar relief, and therefore, now the same cannot be granted. It is further argued that the revision petition is already admitted and interim stay is granted on some condition. An aggrieved person / wife is already residing in the flat of the husband, which is admeasuring 2000 sq. feet. In this view of the matter, the maintenance awarded is excessive, and therefore, it was stayed. It is further argued that the wife is claiming maintenance by filing several proceedings under several Acts, and therefore, this court has stayed the maintenance. Therefore, in submission of the learned advocate for the revision petitioner / original respondent no.1, the application deserves to be rejected.

4 I have carefully considered the rival submissions and also perused the material placed on record with the application as well as with the revision petition.

5 For proper disposal of the instant application, it is necessary to take a brief resume of developments right since inception of the revision petition at the instance of respondent / husband. It is seen from the record that on 10th February 2015, the revision petition for the first time came up for hearing before this court and the following order came to be passed :

“Heard learned counsel for the applicant.

2. Admit.

3. Issue notice to respondent No.2, returnable on 16.03.2015. Learned APP waives service on behalf of respondent No.1/State. Humdast allowed.

4. Stand over to 16.03.2015.”

6 Thereafter, it is seen that the revision petition came up for hearing on 23rd April 2015 and the following order came to be passed :

“Revision petition is already admitted.

Call records and proceedings and place the matter for final hearing on 18th June, 2015.”

7 Next relevant order is an order dated 9th July 2015 which reads thus :

“Since the criminal revision application has been admitted, it shall be shown on the board for final hearing.”

8 It is, thus, seen that, up to 9th July 2015, present applicant / an aggrieved person / wife was not heard on merits of the matter. It is seen from the record that on 31st July 2015, the revision petition was not on the daily board. Upon being mentioned, it was taken up on the production board and following order came to be passed :

“ Not on Board. Mentioned. Taken on production board.

2 The parties and their learned counsel are present.

3 In view of the fact that the applicant is employed at US, it is necessary that this revision

application is heard on priority basis. The application is, therefore, adjourned to 19th August, 2015.

- 4 The orders passed by the learned Magistrate and the learned Sessions Court shall remain stayed subject to the applicant depositing Rs.10,00,000/- in the office of the Registrar (Judicial-I) on or before 7th August, 2015.
 - 5 The Respondent No.2 shall be at liberty to withdraw an amount of Rs.5,00,000/- from the said amount of Rs.10,00,000/-.
 - 6 As far as withdrawal of the rest of the amount is concerned, the court may pass an order on the next date of hearing, if the revision application is not finally decided.
- S.O. to 19.08.2015.”

9 Bare perusal of these orders goes to show that this court on 31st July 2015 was pleased to stay the impugned order of maintenance as an interim arrangement without hearing the parties on merit. The order dated 31st July 2015 is not disclosing any reason for grant of interim stay to the award of maintenance by courts below. In paragraph 4 of the order dated 31st July 2015,

it is only mentioned that orders passed by the learned Magistrate and learned Sessions Judge shall remain stayed, subject to applicant (revision petitioner) depositing Rs.10,00,000/- in the Office of Registrar (Judicial-I) on or before 7th August 2015. Bare perusal of this order dated 31st July 2015 makes it clear that the stay so granted was by way of an interim arrangement, as the matter was not on the board and parties were not heard on merits of the case. Even today also parties have not disputed this fact. This is further clear from paragraph 6 of the order dated 31st July 2015. Perusal of this paragraph goes to show that this court was of the view that on the next date of hearing, the revision petition may be heard finally.

10 Record shows that, thereafter, on 20th August 2015, instead of final hearing of the revision petition, the following order came to be passed :

“Matter to be listed for final hearing in due course.”

11 As pointed out by the learned advocate appearing for the respondent / husband, on 20th August 2015 itself, Criminal Application No.297 of 2015 was also disposed of. The revision petitioner / original respondent no.1 / husband has placed on record copy of that application moved by respondent no.1 / original applicant / an aggrieved person – wife. Prayers made in that application read thus :

“1. The present miscellaneous application may kindly be allowed.

2. The present Criminal Revision Application filed by respondent may kindly be dismissed as oral direction of Hon'ble High Court of paying 50% is not yet complied.

3. The Hon'ble Court may kindly direct the present respondent to produce his latest Income Tax Returns which will help to come to the conclusion of just and fair maintenance to the present applicant as per the status and lifestyle of Respondent Husband.

4. The Hon'ble Court may kindly direct the present Respondent Husband for payment of the entire amount i.e. Rs.43,00,000/- (Forty Three Lacks)

Lying unpaid amount as early as possible so that the applicant can maintain her livelihood along with her minor son.

5. Any other just and equitable order may kindly be passed in the interest of justice.”

12 It is, thus, seen that the aggrieved person / wife, by this application did not pray for vacation of the interim stay with a request for hearing the matter on merit. Prayer for vacation of stay granted by this court on award of maintenance, by an order dated 19th August 2015 was not made in Criminal Application No.297 of 2015 by the aggrieved person / wife.

13 It is apposite to quote the order passed by this court on the said criminal application on 20th August 2015, which reads thus :

“Learned counsel for the applicant, upon instructions seeks liberty to withdraw the application.

2) Liberty as prayed for is granted in the interest of justice. Application stands dismissed as withdrawn. However, this application shall form part of Revision Application no.2 of 2015.”

14 With these orders and with this chronology of events which took place after filing of the revision petition by the respondent / husband. I conclude that the order granting an interim stay to the award of maintenance does not seem to have been passed on merit by this court on hearing the parties by recording reasons, but the same is only by way of interim arrangement with the hope that the revision petition shall be heard and decided finally on the next date of hearing. However, thereafter, on 20th August 2015, this court directed that the revision petition will be heard in due course. In the light of this factual backdrop, I now proceed to decide the application in hand, wherein main prayer is for vacation of the order of stay dated 19th August 2015, apart from directing the revision petitioner / original respondent no.1 / husband to deposit the outstanding amount of maintenance. At this stage, it is apposite to note that in the matter of **S.Nagaraj and Others vs. State of Karnataka and Another with connected matters**¹ it is observed by the Hon'ble Apex Court that the justice is a virtue which transcends all barriers. Neither rules of procedure nor technicalities of law can

1 1993 Supp (4) Supreme Court Cases 595

stand in its way. The order of the court should not be prejudicial to anyone.

15 In the case in hand, an aggrieved person – wife preferred an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005, (D.V.Act for the sake of brevity) before the learned JMFC, Pune, for claiming various reliefs under the said Act. It is contended by the aggrieved person – wife that marriage between her and the revision petitioner / original respondent no.1 / husband was solemnized on 11th July 2008 at Delhi, and thereafter, from April 2009 she started residing with her husband and his relatives at Pune. It is averred by the aggrieved person / wife that she was tortured and abused by her mother in law. She further alleged that her husband used to subject her to domestic violence by sending various texts which were to the effect that he would marry another woman by divorcing her. The wife alleged that on 6th July 2009, she was forced to go to Hotel Estique by her in-laws, where she was beaten by her husband, apart from committing forceful sexual intercourse

with her and on the next day, on the pretext of checking out from the said hotel, she was abandoned by him. The aggrieved person / wife averred that by leaving her alone at the said hotel, her husband was to leave for the U.S.A, but on her complaint, he was brought back by police in pursuant to a LOOK OUT NOTICE. With this material averments, several reliefs were claimed under the provisions of the D.V.Act by the wife.

16 This application came to be replied by the respondent / husband by filing reply at Exhibit 34, whereas in-laws of the wife opposed the application by filing separate reply at Exhibit 35. It is seen from those replies that it is accepted by the husband that he was in the company of the aggrieved person / wife on 6th July 2009. The husband contended that he along with his wife attended the function of Guru Pournima convened at Vagholi and they took darshan of 'Bhayyu Maharaj' – Spiritual Guru of husband. On the next day, as per pleadings of the husband, he was to go to the USA for meeting children out of his first marriage.

17 In support of her claim, an aggrieved person / wife adduced evidence at Exhibit 49, apart from examining two witnesses namely, Jaylaxmi Malleshwar (Exhibit 82) and Vivish Gupta. However, Vivish Gupta did not appear for cross-examination, and therefore, his evidence was rightly not considered by the learned trial Magistrate. In rebuttal, original respondent / husband examined Kishor Pawar and Vijay Aadhav, apart from adducing evidence of original respondent no.3 Santosh Khandelwal – father of the revision petitioner / original respondent no.1 / husband.

18 After hearing parties, by an order dated 15th March 2014, the learned JMFC, Pune, was pleased to allow the application filed by an aggrieved person / wife, with the following operative order :

- “1. The application is allowed.
2. The respondents are hereby restrained from committing any act of domestic violence against the applicant.
3. The Respondent No.1 is hereby restrained from

committing any act of domestic violence through phone calls, emails, SMS or letters.

4. The Respondent No.1 shall pay the applicant Rs.75,000/- [Seventy Five Thousands Rupees] P.M. from the date of the application. Any amount paid by way of interim relief of maintenance shall be deducted from the aforesaid amount of maintenance.
5. The Respondent No.1 shall bear the educational fees, bus fair and other educational charges of the son Yuvraj.
6. The respondents shall not dispossess the applicant from the flat P-9, Konark Campus, Vimannagar, Pune without following the due process of law.
7. The respondents shall not alienate or sell or create any third party interest over the flat P-9, Konark Campus, Vimannagar, Pune so as to deprive the rights of the applicant.
8. The Respondent No.1 shall pay Rs.3,00,000/- (Three lacs Rupees) to the applicant by way of compensation for the domestic violence caused to her.
9. The copy of the judgment and order be given to both the parties free of cost.

10.The copy of the judgment be sent to Protection Officer for execution.”

19 It is seen from this order that the respondent / husband was directed to pay amount of Rs.75,000/- towards maintenance from the date of the application to the aggrieved person / wife, apart from granting other reliefs.

20 This order was carried in appeal by the revision petitioner / respondent / husband. That appeal bearing no.245 of 2014 came to be allowed partly on 22nd September 2014 by the learned Extra Joint Ad-hoc Additional Sessions Judge-1, Pune. The operative order from this impugned appellate judgment reads thus :

- “1) Appeal is partly allowed.
- 2) The impugned judgment and order passed by learned JMFC, Court No.8, Pune, in Criminal M.A. No.2481/2009, on 15.3.2014 is confirmed, except the quantum of maintenance.
- 3) Respondent No.1 shall pay Rs.60,000/- p.m. to the applicant from the date of application and

the amount, if any, paid towards interim maintenance shall be adjusted from the aforesaid amount of maintenance.”

21 It is, thus, clear that, by keeping rest of the order of the trial court intact, the appellate court reduced the quantum of maintenance awarded to an aggrieved person wife, from Rs.75,000/- per month to Rs.60,000/- per month, payable from the date of application. This judgment and order is impugned in the present revision petition, at the instance of the respondent / husband.

22 It hardly needs to be mentioned that the scope of revisional jurisdiction is very limited. Such jurisdiction has to be exercised sparingly when it is shown that order impugned suffers from glaring defect in the procedure or manifest error on point of law consequently resulting in flagrant miscarriage of justice. Perversity is one of the grounds for assailing orders by the courts below in the revisional jurisdiction. Sufficiency of evidence cannot be a question which can be agitated in the revisional

jurisdiction of this court. Keeping in mind this settled position of law, one will have to examine the matter in hand, in order to determine whether the appellate order quantifying the maintenance of Rs.60,000/- per month is prima facie arbitrary, suffers from jurisdictional error or perverse, in order to stay the same under revisional jurisdiction of this court, till final disposal of the revision petition.

23 It is seen from evidence of an aggrieved person / wife that, she was subjected to domestic violence by respondents including her husband i.e. the revision petitioner. There is evidence on record coming from the mouth of an aggrieved person / wife that she was subjected to beating, taunts, sexual harassment as well as psychological and mental torture. She has disclosed in her evidence script of text messages sent to her by her husband threatening her that she will be divorced and he will marry another woman. The wife has categorically stated in her evidence that she was driven out of the house on 6th July 2009. What happened in the Estique Hotel is also stated by her in

paragraph 7 of her evidence. She deposed that on that day, she was ravished by her husband, who indulged in forcible sexual relation with her. Then she was beaten mercilessly with belt and shoes by her husband (the revision petitioner) because of which she suffered injuries on left arm, right leg and back.

24 Jaylaxmi Malleshwar – a witness examined by an aggrieved person / wife in her deposition has disclosed that she has seen the wife crying on 14th June 2009 and upon being asked, she narrated her sufferings at the hands of her in-laws to her.

25 As against this evidence adduced by an aggrieved person / wife, the present revision petitioner / original respondent no.1 /husband did not dare to enter into the witness box to rebut what is stated by his wife about the domestic violence. With this material on record, prima facie, at this stage, I do not see any error committed by courts below for holding that an aggrieved person / wife, was subjected to domestic violence by respondents.

26 It is in evidence of original applicant / wife – an aggrieved person that the revision petitioner i.e. her husband is the Chief Executive Officer of Asap Tax Inc. a California Corporation, apart from Chief Executive Officer of Strategic Tax Services Pvt. Ltd., at Pune. She deposed that her husband is having immovable assets and he earns crores of rupees. She has stated in her evidence that there were three chauffeur driven cars apart from several servants at her matrimonial house. Perusal of cross-examination of the wife indicates the luxurious life style of her husband and in-laws. It is needless to mention here that undisputedly the husband is a Chartered Accountant. Cross-examination of the wife indicates that her husband earns income even at USA and files Income Tax Returns. His frequent visits to USA are reflected from evidence of original applicant / wife – an aggrieved person. As against this, the respondent / husband did not enter in the witness box to disclose his earnings which is a matter especially within his own knowledge.

27 So far as evidence of Kishor Pawar and Vivish Gupta (witnesses examined by respondents) is concerned, by their evidence it was attempted to show that the wife was present at the function of Guru Pournima at Vagholi and they met Bhayyu Maharaj at that function. In the wake of categorical evidence regarding domestic violence coming from the mouth of the wife, evidence of these two witnesses is of no relevance.

28 Respondent no.3 Santosh Khandelwal in his oral evidence has stated that he had purchased a flat and his son i.e. revision petitioner / respondent / husband has not contributed anything in purchase of that flat. Even evidence of this witness shows frequent visits of his son i.e. respondent / husband to the USA apart from the fact that at the time of alleged incident, original respondent no.1 / husband so also original applicant / wife / an aggrieved person, were at the hotel. Evidence of respondent no.3 Santosh Khandelwal probablise the version of the aggrieved person / wife that her husband works in the U.S.A. also and earns income there.

29 We are considering the matter under the social welfare legislation. Statement of object and reasons of the D.V.Act read thus :

“Statement of Objects and Reasons - Domestic violence is undoubtedly a human right issue and serious deterrent to development. The Vienna Accord of 1994 and the Beijing Declaration and the Platform for Action (1995) have acknowledged this. The United Nations Committee on Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in its General Recommendation No. XII (1989) has recommended that State parties should act to protect women against violence of any kind especially that occurring within the family.

2. The phenomenon of domestic violence is widely prevalent but has remained largely invisible in the public domain. Presently, where a woman is subjected to cruelty by her husband or his relatives, it is an offence under Section 498-A of the Indian Penal Code. The civil law does not however address this phenomenon in its entirety.

3. It is, therefore, proposed to enact a law keeping in view the rights guaranteed under Articles 14, 15 and 21 of the Constitution to provide for a remedy under

the civil law which is intended to protect the women from being victims of domestic violence and to prevent the occurrence of domestic violence in the society.

4. The Bill, inter alia, seeks to provide for the following:-

(i) It covers those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under the proposed legislation. However, whereas the Bill enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner, it does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner.

(ii) It defines the expression "domestic violence" to include actual abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

(iii) It provides for the rights of women to secure housing. It also provides for the right of a woman to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by a residence order, which is passed by the Magistrate.

(iv) It empowers the Magistrate to pass protection orders in favour of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provide her assistance from the domestic violence.

(v) It provides for appointment of Protection Officers and registration of non-governmental organisations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe shelter, etc.

5. The Bill seeks to achieve the above objects. The notes on clauses explain the various provisions contained in the Bill.”

30 Section 20 of the D.V.Act which provides for reliefs which may be granted to an aggrieved person reads thus :-

“20. Monetary reliefs - (1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include but is not limited to —

(a) the loss of earnings;

(b) the medical expenses;

(c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and

(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

(2) The monetary relief granted under this section shall be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed.

(3) The Magistrate shall have the power to order an appropriate lump sum payment or monthly payments of maintenance, as the nature and circumstances of the case may require.

(4) The Magistrate shall send a copy of the order for monetary relief made under sub-section (1) to the parties to the application and to the in-charge of the police station within the local limits of whose jurisdiction the respondent resides.

(5) The respondent shall pay the monetary relief granted to the aggrieved person within the period specified in the order under sub-section (1).

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

31 It is well settled that quantum of maintenance always lies in discretion of the trial Magistrate. In the case in hand, considering status of parties and the source of earning of the

respondent / husband, prima facie, at this stage, it cannot be said that the maintenance amount quantified by the appellate court is excessive or exorbitant. Mandate of the D.V.Act is that the amount of maintenance should be adequate, fair and reasonable. It needs to be consistent with the standard of living to which the aggrieved person is accustomed. Evidence of the aggrieved person reflects the standard of living to which she was accustomed to, being in company of her husband i.e. revision petitioner / respondent no.1. Both courts below have considered the aspect of award of maintenance by considering entire evidence on record and on this aspect, paragraph 18 of the judgment of the learned JMFC, Pune, is very relevant. The entire evidence was considered by the learned JMFC while quantifying the amount of maintenance at Rs.75,000/- per month. However, it is seen that the learned appellate court, as seen from paragraph 14 of the appellate order, has reduced it to Rs.60,000/-. Relevant portion of paragraph 14 of the appellate order reads thus :

“While awarding the quantum of maintenance, it appears that the learned Magistrate had awarded excessive and exorbitant quantum of maintenance at

the rate of Rs.75,000/- p.m. True that, learned Magistrate has referred to the fact that respondent no.1 is Chartered Accountant, having his firms at Viman Nagar, Pune and USA. Learned Magistrate has also considered the income tax returns of respondent no.1. It is thus evident that the respondent no.2 is earning at USA as well as in India as he has accountancy firms at both the places. Learned Magistrate has considered the standard of living of the parties and has awarded the maintenance at the rate of Rs.75,000/- p.m. At the same time it is necessary to note that the requirement of a person for own maintenance at Rs.75,000/- p.m. is definitely excessive and exorbitant. Therefore, in view of this aspect, considering the standard of living of the parties and the requirement of the applicant, I think that the quantum of Rs.60,000/- p.m. towards maintenance of applicant is just and correct. Therefore, though I hold that the impugned judgment and order is just and correct, still then I think it necessary to reduce the quantum of maintenance to Rs.60,000/- p.m. from Rs.75,000/- p.m.”

32 Quantum of maintenance to an aggrieved person depends upon examination of all relevant facts in totality including past life of partner, standard of living they were

accustomed to, mode of living, future requirements, habits, wants and class of parties. In the era of human rights of gender equality, the dignity of a woman is unquestionable and the same is recognized in Articles 14, 15 and 21 of the Constitution. In the case in hand, the aggrieved person / wife is not employed. She has no source of livelihood as seen from her evidence. She quit her job at Delhi to join company of the respondent / husband after their marriage. On the contrary, respondent / husband is gainfully employed and earns in India as well as in the U.S.A. Even if it is assumed that some other proceedings claiming maintenance by the aggrieved person / wife under different law are pending, that by itself is not a ground for staying the order of maintenance to the wife. Proviso Clause of Section 12 of the D.V.Act takes care of this contingency and the respondent / husband is entitled for claiming set off in that regard. At this juncture, it needs to be noted that Section 36 of the D.V.Act makes it clear that provisions of the D.V.Act are in addition to and not in derogation of any other law. Section 20(d) of the D.V.Act makes it clear that award of maintenance thereunder to an aggrieved person can be in

addition to an order of maintenance under Section 125 of the Code of Criminal Procedure. Thus, it is clear that, Section 20 of the D.V.Act is enacted to ensure that an aggrieved woman is paid proper and fair maintenance, as law recognize vulnerability of a woman for survival in the world.

33 For above stated reasons, by no stretch of imagination, prima facie, it can be said that the appellate order quantifying the maintenance at Rs.60,000/- per month is either perverse or illegal. In this view of the matter, the following order :

ORDER

- i) The application is partly allowed
- ii) Stay granted by this court by order dated 31st July 2015 stands vacated.
- iii) Respondent no.1 / original applicant / wife – an aggrieved person is permitted to withdraw remaining amount of Rs.5,00,000/- deposited in the Registry of this court by furnishing necessary surety to the satisfaction of the Registrar(Judicial) of this court.

34 The learned advocate appearing for the revision petitioner prays that this order be stayed for sometime in order to enable the revision petitioner to approach the Hon'ble Apex Court.

As the order is in respect of maintenance of a woman passed under the provisions of Domestic Violence Act, which is a welfare legislation, the request so made is rejected.

(A. M. BADAR, J.)