

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1151 OF 2017

Mr. Elvis E. Furtado & Anr.Petitioners
V/s.
The State of Maharashtra & Anr.Respondents

Mr. K.T.Thomas, Advocate for Petitioners.
Mrs. M.M.Deshmukh, AGP for the Respondent-State.

CORAM :- SANDEEP K. SHINDE, J.

DATE :- 30TH OCTOBER, 2017.

PC. :-

This Petition under Article 227 of the Constitution of India is preferred against the order dated 3.8.2016 passed in Criminal Appeal No.53 of 2016 by the learned Additional Sessions Judge, Borivali Division, Dindoshi, Goregaon.

2 Respondent No.2 herein-is, wife of the Petitioner No.1 who had filed the proceedings under the D.V.Act for various reliefs. Petitioner No.2 is mother-in-law of the Respondent-Wife. Respondent-Wife had moved an application and sought leave to amend original application wherein she inadvertently had claimed maintenance for child. It is contended that no child was born out of wed-lock between the Petitioner No.1 and the Respondent-Wife and

as such, averment and claim was purely a typographical error and the same may be permitted to delete. That after hearing the Petitioner No.1 and the Respondent-Wife, the learned trial Judge was pleased to allow the amendment vide order dated 21.1.2016. The said order was challenged in the Criminal Appeal No.53 of 2016 by husband. The learned Additional Sessions Judge was pleased to dismiss the Appeal vide order dated 3.8.2016, against which the present Writ Petition is preferred.

3 Heard the learned counsel for the Petitioners. Perused the orders and the pleadings. It is not in dispute that no child was born out of wedlock between the Petitioner No.1 and the Respondent-Wife. It appears that while drafting application inadvertently prayer was made and the maintenance amount was claimed for child. However, having found that it was purely a mistake and typographical error, application was moved by the wife to carry out amendment. The learned trial Judge allowed the application after hearing the Petitioners herein. The learned counsel appearing for the Petitioners, however, would submit that there are much more incorrect statements made in the application preferred by the wife. However, he does not dispute that no child was born out of wedlock between the Petitioner No.1 and the Respondent-

Wife.

4 In view of the aforesaid facts, the Petition deserves no consideration and is accordingly dismissed with no order as to costs.

(SANDEEP K. SHINDE, J)