

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.172 OF 2017

IN

CRIMINAL REVISION APPLICATION NO.662 OF 2016

Manjushri G. Prusty and Ors.)...Applicants

V/s.

Ganesh Chandra Narhari Prusty)...Respondent.

Mr. Vaibhav Vagale i/by Avinash Patil, Advocates for the Applicants.

Smt. Farhana Shah, Advocate for Applicant in APPR No.172 of 2017.

Mr. S.V. Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 4th May, 2017.

P.C. :

Adjournment is sought on behalf of the respondent/the original revision petitioner with a reason that the learned advocate for the revision petitioner is unavailable due to marriage of his sister. The learned advocate for the applicant no.1/wife opposed the request for adjournment by submitting that the maintenance awarded to her is stayed by this Court and

limited prayer is made by her to withdraw the amount deposited by her husband towards maintenance in the registry of this Court.

2 I have perused the record made available. It is seen that the respondent no.1 in the revision petition who is the Aggrieved Person moved an application under the Protection of Women from Domestic Violence Act, 2005 and she was granted maintenance. That order came to be modified by enhancing the amount of maintenance vide order dated 17.12.2015 by the learned J.M.F.C., Panvel. The order enhancing the maintenance was carried in appeal by the husband and the said appeal is dismissed by the learned Additional Sessions Judge Raigad at Alibag. This is how the revision petitioner/husband has filed this revision petition.

3 It is seen that on 16.12.2016 while issuing notice this Court after noting that there are arrears of maintenance to the tune of Rs.72,000/- had stayed the execution proceedings after recording readiness of the revision petitioner to deposit an amount of Rs.36,000/- on or before 5.1.2017.

4 By the instant application, the widow/Aggrieved Person has prayed for withdrawal of the amount of maintenance deposited by her husband before the registry of this Court. At the time of passing of the order dated 16.12.2016, this Court has accepted the statement of the learned advocate for the revision petitioner that as on date arrears of maintenance were Rs.72,000/-. A meager amount of Rs.36,000/- is deposited by the husband with the registry of this Court.

5 This Court is of the considered opinion that there cannot be stay to the amount of maintenance awarded to a woman without valid reason and that too under the provisions of welfare legislation such as the Protection of Women from Domestic Violence Act, 2005. With passage of time, maintenance amount must have been much more than Rs.72,000/-. What is deposited now is just Rs.36,000/-.

6 In this view of the matter, the following order:

- (1) The application is allowed.
- (2) The applicant/wife/Aggrieved Person is permitted to withdraw an amount of

Rs.36,000/- deposited by the revision petitioner/husband with the registry of this Court.

(3) With this, the application stands disposed of.

(A. M. BADAR, J.)