

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1494 OF 2017
WITH
CRIMINAL WRIT PETITION NO. 1495 OF 2017

Purushottam Jagdish Kurdia	...	Petitioner
Vs.		
Rekha Purshottam Kurdia & Ors.	...	Respondents

Ms. Anjali Helekar a/w Ms. Anu C. Kaladharan a/w Ms. Gauri Velankar i/b.
Mr. mandar Limaye, Advocate for the petitioner.
Mr. Rakesh Agrawal a/w Mr. Anand Kumar Singh for respondent No.1.
Mr.S.R.Agarkar & Ms. Neeta jain, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 4th May, 2017.

P.C.

Rule. Rule made returnable forthwith with consent of the parties.

2. The petitioner herein, being aggrieved by the order dated 10.3.2017 passed by the Addl. Sessions Judge, Greater Mumbai in Criminal Appeal No.989 of 2016 has approached this Court. The petitioner is the respondent in C.C. No.11/DV/2016 pending before the Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai. The learned Magistrate by an order dated 7.11.2016, has directed the petitioner to pay maintenance of Rs.10,000/- per month to the respondent from the date of the application.

3. Being aggrieved by this order, the respondent herein had filed Criminal Appeal No.989 of 2016 before the Sessions Court seeking enhancement of maintenance. The petitioner had also filed an appeal challenging the grant of maintenance. The learned Sessions Court has partly allowed Criminal Appeal No.989 of 2016 and has enhanced an amount of maintenance to Rs.20,000/- per month from the date of original application. The learned Sessions Judge has also expedited the matter and has directed the lower Court to dispose of the original proceedings within a period of 60 days from the date of first hearing. The respective counsel submit that in the original proceedings, four witnesses have been examined till today.

4. The learned counsel for the respondent fairly submits that the petitioner has paid Rs.90,000/- till today and there are certain arrears also. The learned counsel for the petitioner vehemently submits that the maintenance granted by the Sessions Court is more than the income of the petitioner and, therefore, the order deserves to be quashed and set aside.

5. As against this, the learned counsel for the respondent submits that no proof of income or I.T. Returns were filed before the Magistrate. However, before the Sessions Court, a certificate of employer was filed which shows the salary of the petitioner is Rs.12,000/- per month.

6. Be that as it may, at the end of hearing of the petition, the learned counsel for the petitioner, upon instructions from the petitioner has submitted that the petitioner would deposit an amount of Rs.50,000/- within four weeks from today in the Court of the Metropolitan magistrate and till the disposal of the matter, he would continue to pay maintenance at the rate of Rs.10,000/- per month. The submission is accepted since the original proceedings are expedited. With this modification, the Petitions are partly allowed. The Metropolitan magistrate is directed to proceed with the matter without being influenced by the observations made by the Sessions Court while deciding the Criminal Appeal No.989 of 2016. Both the Petitions stand disposed of.

(SMT. SADHANA S.JADHAV, J.)