

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL REVISION APPLICATION NO.588 OF 2015**

**ALTAf SALIM MANER AND ORS. )...APPLICANTS**

V/s.

**BADRUN ALTAF MANER AND ANR. )...RESPONDENTS**

Mr.Shailesh Chavan i/b. Mr.Milind Deshmukh, Advocate for the Applicant.

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

**CORAM : A. M. BADAR, J.**

**DATE : 14<sup>th</sup> MARCH 2017.**

P.C. :

1            This is a revision petition challenging the order dated  
2<sup>nd</sup> November 2015 passed by the learned JMFC, Koregaon,  
thereby allowing the application for interim maintenance filed by  
respondent no.1 / an aggrieved person claiming interim  
maintenance.

2            Heard the learned advocate appearing for revision petitioner. He argued that marriage between revision petitioner no.1 and respondent no.1 / an aggrieved person was solemnised in the year 1999 but subsequently on 3<sup>rd</sup> April 2014 because of illicit relations of respondent no.1, revision petitioner no.1 has divorced respondent no.1. Subsequently, revision petitioner no.1 filed two N.C. reports against respondent no.1 – an aggrieved person. Thereafter, respondent no.1 preferred an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against revision petitioners and along with the said application, she also filed an application for interim maintenance, which is allowed by the learned trial Magistrate on 2<sup>nd</sup> November 2015. In submission of the learned advocate appearing for revision petitioner, this order is bad in law because there was severance of relationship between the husband and wife because of divorce.

3            I have carefully considered submissions so advanced and also perused the impugned order dated 2<sup>nd</sup> November 2015

whereby the application for interim maintenance came to be allowed.

4           It is seen from the impugned order that the learned trial Magistrate has considered the defence of revision petitioners regarding divorce and held that without adducing evidence on this point, it cannot be decided at the interim stage. The fact of the divorce was disputed by the aggrieved person and in the wake of such disputed question of fact, reasoning so given by the learned trial Magistrate cannot be said to be illegal.

5           The claim for interim maintenance was Rs.15,000/- per month, whereas, the learned trial Magistrate, after hearing the parties has awarded maintenance of Rs.1,000/- only to the aggrieved person. It is well settled that quantum of maintenance always depends on discretion of the learned trial Magistrate and same is adjudicated on the basis of standard of living, future requirement, habits, wants as well as class of parties.

6           In the case in hand, considering the entire aspect of the defence of respondents before the learned trial Magistrate, the order granting interim maintenance is passed. It cannot be said that the same is perverse.

          No manifest error of law or procedural irregularity can be found with the impugned order.

          The revision petition, as such, is devoid of merit and the same is dismissed.

**(A. M. BADAR, J.)**