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

CRIMINAL REVISION NO.99 OF 2016

Shri Dhanraj s/o Kisan Jangade,
Aged about 50 years,
Occ: Labourer, R/o. Wadi, Nagpur,
R/o. Movari, Ta. Pawani,
Dist. Bhandara.

..APPLICANT

VERSUS

Sau. Rupali w/o Dhanraj Jangde,
Aged about 45 years,
Occ: Labourer, R/o. Shastri Nagar
Slum, P.O. Old Bakadganj,
Nagpur-08.

..RESPONDENT

Mr. N.R. Bhisikar, Advocate for applicant;
Mr S.S. Bhaurao, Advocate h/f Mr A.D. Girdekar,
Advocate for respondent

CORAM : N.W. SAMBRE, J.

DATE : 23rd MARCH, 2017

ORAL ORDER :

The respondent filed an application under Section 12 of the Protection of Women from Domestic Violence Act (for short, 'D.V. Act') praying therein appropriate relief. The respondent sought interim maintenance of Rs.20,000/- per month, which application came to be allowed by order dated 2nd June, 2014 passed by learned Judicial Magistrate,

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First Class, Nagpur awarding maintenance of Rs. 2000/- per month, for each of the claimants i.e. Total Rs.6000/- per month. Appeal No. 171 of 2014 before learned Sessions Judge, Nagpur came to be dismissed, as same was barred by limitation, as it was filed, according to learned Judge belatedly after 27 days. As such, present proceedings.

2. Amongst other, the grounds as are raised are; (a) in the backdrop of scheme of Sections 24 and 29 of the D.V. Act, it cannot be inferred that there is delay as copy of the order was never supplied to the applicant. According to him, he is unable to pay amount of Rs.6000/- per month to the respondents, as he is labour and is earning not more than Rs.3000/- per month.

3. Having considered the submission made, even if as is claimed, delay is ignored, still the fact remains that order of maintenance as is ordered is interim and *prima facie* based on material placed before learned Magistrate. The main proceedings are still pending and it will be open

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for the applicant to contest the claim qua capacity to pay maintenance.

4. It is also required to be noted that till date, the applicant has not complied with the order of maintenance in its entirety. In the aforesaid backdrop, in my opinion, no indulgence is warranted, as no error of jurisdiction could be noticed. As such, criminal revision fails and same stands rejected. The hearing of the application before the learned Magistrate is expedited.

(N.W. SAMBRE, J.)

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