

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 23 OF 2018

Mr. Antonio De Matos Sequeira Almeida,
64 years of age,
Indian National,
Residing at H. No.03-1,
Bernard Guedes Road,
Near Panaji Municipal Market,
Panaji - Goa.

... Petitioner

V e r s u s

(1) Mrs. Felicidade Wilma Almeida,
51 years of age,
Indian National,
Residing at G1,
Solanki Heights,
Alto Betim, Bardez, Goa.

(2) Mr. Neil Almeida,
25 years of age,
Indian National,
Residing at G1,
Solanki Heights,
Alto Betim, Bardez, Goa.

.... Respondents.

Shri Myron Menezes, Advocate for the Petitioner.

None present for the Respondents.

CORAM: C. V. BHADANG, J.
DATE: 4th June, 2018.

ORAL ORDER:

On 7/2/2018, a notice for final disposal was issued in this case. The respondents have chosen not to appear although served. The present petition can be disposed off on a short count.

2. The first respondent had filed an application under section 12 of the Protection of Women from Domestic Violence Act, 2005 (Act, for short) seeking various reliefs including a monetary relief. The second respondent happens to be the son of the petitioner and the first respondent. Admittedly, the second respondent has attained majority and presently is aged about 25 years and has obtained an Engineering Degree. The learned Magistrate by order dated 13/3/2012 has granted interim maintenance to the second respondent at the rate of Rs.8000/- per month. Feeling aggrieved, the petitioner challenged the same before the learned Sessions Judge in Criminal Appeal No.126/2012 inter alia on the ground that under the provisions of the Act, only a minor child is entitled to the relief. The learned Sessions Judge has dealt with this aspect in para 11 of the impugned judgment and has found that the child is not self supporting and is having no income of its own and is pursuing his studies and in that view of the matter, the learned Sessions Judge refused to accept the ground as raised and has dismissed the appeal by judgment and order dated 4/11/2017. Feeling aggrieved, the petitioner is

before this Court.

2. I have heard the learned counsel for the petitioner. None appears for the respondents. Perused record.

3. The learned counsel for the petitioner has pointed out definition of a “child” as contained in section 2 (b) of the Act in order to submit that a “child” means any person below the age of eighteen years and includes any adopted, step or foster child. Reliance is placed on the decision of this Court in the case of **Shri Rajendra D. Seth Vs. Rekha Jha @ Rekha R. Seth (2016) ALL MR (Cri) 1506**, in which this Court has held that a child who is major in age would not be entitled for maintenance.

4. On hearing the learned counsel for the petitioner it is apparent that the impugned order which is passed under section 20 of the Act cannot be sustained. Section 20 of the Act provides for a monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence. As noticed earlier, a “child” within the meaning of section 2(b) of the Act means any person below the age of 18 years. It is apparent from the record that the second respondent has attained majority and thus cannot be said to be a “child” within the meaning of section 2 (b) of the Act. A similar view has

been taken by this Court in the case of **Shri Rajendra D. Seth (supra)**. In that view of the matter the petition is allowed. The impugned order is hereby set aside. The application for interim monetary relief stands dismissed.

C. V. BHADANG, J.

Ap/