

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION No. 125 OF 2018

Mr. Mudassir Abdul Rehman Momin

...Applicant

Vs.

Mrs. Zainab Muddarir Momin and Anr.

...Respondents.

Mr. S.R. Desai a/w. Mr. R.G. Shatalwar for Applicant

Mr. Y.Y. Dabke – APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 12, 2018

P.C.

1. Under the Protection of Women from Domestic Violence Act, 2005 (for short 'the said Act'), the Respondent- wife had initiated the proceedings vide CC No. 29/DV/2016 against the present Applicant-husband alleging that her marriage was solemnized with him on January 11, 2015. The Respondent-wife lodged matrimonial dispute and claimed that the Applicant-husband is not maintaining her, as such sought interim maintenance along with appropriate arrangements for her accommodation.

2. The Learned Metropolitan Magistrate by an order dated May 13, 2017 directed to pay maintenance at the rate of Rs.10,000/- p.m. to the respondent-wife and further directed to secure alternative accommodation for her or, in

default, to pay Rs.2,500/- p.m. as a rent.

3. Feeling aggrieved, an appeal was preferred by the Applicant -husband before the Learned Sessions Judge being Appeal No. 469 of 2016 under the provisions of section 29 of the said Act, which came to be rejected on November 14, 2017, as such this revision.

4. The Learned counsel for the Applicant -husband would urge that the Court below while granting maintenance, has not recorded the finding on the issue of income of the present Applicant-husband. According to him, the Applicant is H.S.C. passed and is self-employed. He would then urge that the alleged business of clothes is owned by his father and he has no income from the said source. He further alleged that Respondent-wife is highly qualified and can earn on her own and, as such, the interference is sought in the order impugned in the revisional jurisdiction of this Court.

5. Respondent is personally present in the Court and opposed the claim. It is apparent from the observation made by the Learned Magistrate that the present Applicant- husband has not disclosed his source and actual income. The Learned Trial Court based on the pleadings of the parties, went on appreciating claim and awarded maintenance of Rs.10,000/- p.m. and Rs.2,500/- p.m. towards the accommodation charges.

6. So far as the present revision is concerned, having appreciated the findings recorded by the Learned Magistrate and the Revisional Court, hardly any material is placed on record so as to overcome the findings recorded by the Learned Magistrate qua the income of the Applicant husband.

7. The Applicant has admitted that his father is in the clothes business and the Applicant has also failed to demonstrate that the Respondent-wife is gainfully employed.

8. In the aforesaid background, the interim arrangement for the accommodation and the amount affirmed, the appeal does not warrant any interference in the revisional jurisdiction. Hence, criminal revision application is rejected and stands disposed of.

[NITIN W. SAMBRE, J.]