

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

CRIMINAL WRIT PETITION NO.1056 OF 2016

Raskin Pinakin Engineer

...Petitioner

Versus

Namrata Raskin Engineer & Ors.

...Respondents

Mr.Abhishek Mishra i/b Mr.M.S. Mhambrey for the Petitioner.

Mr.Yogesh Gandhi a/w Mr.Rajesh X. Machado Zehra Patel for
Respondent No.1.

Mr.M.V. Saste, APP for the Respondent-State.

CORAM : SMT.BHARATI H. DANGRE, J.

DATE : 03rd SEPTEMBER 2018

P.C.

1. The Writ Petition is filed by the petitioner-husband who is aggrieved by an order dated 20.01.2016 passed by the Additional Sessions Judge, Greater Bombay thereby upholding the order dated 13.10.2014 passed by the Metropolitan Magistrate, 12th Court, Bandra in D.V. Case No. C.C. 68/DV/2014.

2. An application was moved by the applicant-wife seeking maintenance and she sought interim relief under the provisions of Section 23 of the Protection of Women from Domestic Violence Act, 2005. The marriage between the parties was solemnized on

20.02.2007 and the applicant had alleged the harassment and abuse at the hands of the respondent and she had narrated in detail the sufferings and the harassment which she has undergone. Allegations are also made in respect of the respondent living an adulterous life. The claim of maintenance was raised for an amount of Rs.1,50,000/- for the wife herself and Rs.50,000/-for minor child and an amount of Rs.5 Crores was also prayed by way of compensation under Section 22 of the Act. The learned Magistrate considered the said application in detail after taking into account the earning of the respondent No.1 which is not less than 30 lakhs per year. As far as the prayer for compensation is concerned the Magistrate was pleased to reject the said prayer. The direction was therefore issued to pay monthly allowance of Rs.15,000/- to the applicant and Rs.10,000/- to the small child. This amount came to be awarded as an interim maintenance till the final determination of the main application or till further order is passed.

The present petitioner had approached the Appellate Court challenging the said order under Section 29 of the Act of 2005 and the learned Appellate Court on due consideration of matter was pleased to reject the appeal.

3. I heard leaned counsel for the applicant and the learned counsel for the respondent.

4. Perusal of the application and the orders passed thereon would reveal that an amount of Rs.15,000/- has been awarded in favour of the wife by taking into consideration the earnings of the respondent and an amount of Rs.10,000/- has been directed to be paid to the child taking into consideration the said earnings. Though, it is attempted to be canvassed before Court of appeal that the respondent-husband earns an amount of Rs.5 lakhs per month from the business which he carries, the learned Magistrate on consideration of the pros and cons and taking into consideration the matter need of the wife and child, was pleased to award maintenance of Rs.15,000/- to the wife and Rs.10,000/- to the child.

I do not see any illegality or perversity in the impugned order. The Appellate Court has rightly observed that the amount of maintenance was granted by way of pendente lite and when the main application would be heard the parties would get an opportunity to stake their claims by adducing appropriate evidence. In such circumstances, in the absence of any illegality or perversity in the impugned order, the same is upheld and the present petition deserves to be dismissed. No order as to costs.

(SMT.BHARATI H. DANGRE, J.)

Nilam
Santosh
Kamble

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Nilam Santosh
Kamble
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