

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.240 OF 2016

Anant Tukaram Pandit	.. Applicant
Versus	
Asha Anant Pandit and anr	.. Respondents

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Mr. Shailesh Chavan i/b Mr.Milind Deshmukh for the applicant.
Mr.Swaroop Karade i/b Mr.Surel Shah for respondent no.1.
Ms.S.D.Shinde, APP for the State.

CORAM: SMT. BHARATI H.DANGRE, J

DATED : 4th SEPTEMBER, 2018

P.C:-

1 The Revision Application is filed by the applicant husband being aggrieved by the order passed by the Addl. Sessions Judge at Satara on 12th January 2016. The Addl. Sessions Judge, Satara by the impugned order has modified the order passed by the Magistrate directing the applicant to pay a maintenance of Rs.10,000/- and a compensatory amount of Rs.10 lakhs and has substituted the said amount by an amount

of Rs.7,000/- towards maintenance, an amount of Rs.7 lakhs as compensation. Learned counsel for the applicant would invite the attention of this Court to the impugned orders passed by the Court as well as the specific allegations made by the petitioner in the petition. He would also invite attention of the Court to the proceedings instituted by him in respect of the adulterous conduct of the respondent wife and he has also placed on record the CDR details to demonstrate that she was leading an adulterous life. The marriage between the parties is solemnized as early as on 4th May 1982 and out of the wedlock, they are having two grown-up children. On account of the harassment faced by the wife, she approached the Magistrate by instituting proceedings under Section 12 of the Domestic Violence Act, 2005. In the said application, she has categorically spelled out the harassment in form of the suspicious behaviour of the applicant-husband and specifically prayed for an amount of maintenance in view of the fact that she has no other means to maintain herself. She also prayed for compensation of Rs.17 lakhs for the physical, mental, emotional and economic harassment to which she was

subjected to. The said application was opposed by the husband by filing his reply and by denying the allegations and also stating that it was the respondent-wife who was rather harassing the applicant. The Judicial Magistrate First Class allowed the said application and awarded maintenance to the tune of Rs.10,000/-. The said order came to be assailed by the present applicant before the Sessions Judge, Satara. Apart from the conduct of the respondent wife, the applicant also stressed upon the aspect of his financial capacity and he contested the order of the JMFC on the ground that he was working as a Drawing teacher and he has a meager income which is not sufficient to maintain himself and therefore, he is unable to make payment of amount. He also contested the claim awarded in favour of the wife on the ground that she is undertaking tailoring activity and earning sufficient amount for herself. The Sessions Court considered the *pros* and *cons* of the matter and also took into consideration that the husband had purchased a flat at Wai, which came to be sold in the year 2011 for a consideration of Rs.Seven lakhs. Further, since he has already retired, the Court also took into consideration the fact

that he has earned the retiral benefits including the amount of gratuity, provident fund, etc. The Court also took into consideration that the wife was entitled for compensation and damages for the injuries suffered on account of torture and emotional distress suffered by the aggrieved person on account of the Domestic Violence inflicted on her. However, the amount of compensation of Rs.10 lakhs came to be reduced by the Addl. Sessions Judge, Satara to an amount of Rs.7 lakhs, with an observation that the amount of Rs.10 lakhs was excessive and was not commensurating with the income of the husband. As far as the amount of monthly maintenance is concerned, the Court reduced the amount to Rs.7,000/-.

3 With this modification, the Addl. Sessions Judge disposed of the Criminal Appeal and Criminal Revision Application filed by the applicant.

Today, during the course of hearing, when a specific query is made to the parties as to whether the amount of maintenance which is directed to be paid by an order dated 12th January 2016 in its modified form has been paid to the wife,

the learned counsel for the respondent makes a categorical statement that not a single penny has been received by the wife towards maintenance. On a specific query from the learned counsel for the applicant, he also admits that no amount has been paid. It is noted that this Court had issued notice on 28th July 2016 to the respondent. However, in the proceedings, there is no stay to the impugned order and the matter was simply adjourned from time to time.

4 In such circumstances, on hearing the learned counsel for the parties and on perusal of the impugned order passed by the Addl. Sessions Judge, I am of the firm view that the said order takes into consideration the earning capacity of the applicant-husband and his means of earning and also the factum that the respondent-wife has no source of living and has therefore, rightly awarded the amount of maintenance and has rather granted relief in favour of the present applicant by reducing the amount of Rs.10,000/- to Rs.7,000/- and also deducting the amount of compensation from Rs.10 lakhs to Rs.7 lakhs.

5 In such circumstances, since the impugned order do not suffer from any illegality or perversity and is based on the material that is being placed on record by the parties and considering the provision of the Domestic Violence Act, and the need for protecting the dignity of the woman as conceptualized by the said enactment, the present application is without any merit and substance. The same is dismissed.

6 The order passed by the Addl. Sessions Judge dated 12th January 2016 is upheld. No order as to costs.

(SMT. BHARATI H. DANGRE, J.)

Manali
Prasanna
Tilak

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by Manali
Prasanna Tilak
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