

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

CRIMINAL REVISION APPLICATION NO. 521 OF 2017

Shilpa Shaunak Sathe & Anr. ...Applicants

Versus

Shaunak Vilas Sathe & Ors. ...Respondents

**WITH
CRIMINAL REVISION APPLICATION NO. 325 OF 2017**

Shri. Shaunak Vilas Sathe & Ors. ...Applicants

Versus

Mrs.Shilpa Shaunak Sathe & Anr. ...Respondents

Mr.Ashutosh R. Gole for the Applicants in Revision Application No. 521 of 2017.
Ms.Pritam Joshi for the Applicants in Revision Application No. 325 of 2017.
Mrs.Geeta P. Mulekar, APP for the Respondent –State.

**CORAM : MRS. MRIDULA BHATKAR, J.
DATE : DECEMBER 05, 2018**

P.C.:

1. Criminal Revision Application No.521 of 2017 is filed by the applicants i.e., wife and her son against the respondents i.e., her husband and the father-in-law and the mother-in-law.

2. In this Revision Application, the order dated 5th October, 2016 passed by the learned Judicial Magistrate First Class, II Court, Thane, rejecting the

application below exhibit 5 in O.M.A. No. 82 of 2016 and also the order dated 5th April, 2017 passed by the learned D.J.-7 and Additional Sessions Judge, Thane in Criminal Appeal No. 106 of 2016 are challenged.

3. Criminal Revision Application No. 325 of 2017 is filed by respondent No.1-husband against the applicants i.e., his wife and son.

4. In this Revision Application, the order dated 5th April, 2017 passed by the learned D.J.-7 and Additional Sessions Judge, Thane in Criminal Appeal No. 106 of 2016 is challenged.

5. Both the parties are addressed by their original status as the complainant-wife and the respondent-husband.

6. The complainant-wife has filed proceedings under domestic violence. She has also filed an interim application for maintenance. The said application was rejected by the trial Court. Against which, she filed Criminal Appeal No. 106 of 2016 praying for interim maintenance and setting aside the order of the trial Court. The learned Sessions Judge allowed the said Appeal and the respondent-husband was directed to deposit an amount of Rs.30,000/- p.m. towards maintenance till the decision of the Application. Being satisfied with the said order, both the parties have come to this Court with their respective Revision Applications.

7. The learned counsel for the complainant-wife has submitted that the complainant-wife was subjected to the harassment and the torture. She is staying in a flat, initially it was owned by the respondent-husband and thereafter, her husband gifted that flat to his father and thus, all the respondents have hatched conspiracy to deprive the complainant-wife of her matrimonial shared household. He has argued that the respondent-husband is working in merchant navy and drawing salary of 9000 US \$ p.m. Generally, he is on the ship for six months and for remaining six months though he does not earn anything, his salary if calculated, it comes to Rs. 3 lakhs per month. He has further submitted that the learned Sessions Judge has not considered standard of living of the complainant-wife and passed the order of interim maintenance of Rs. 30,000/- p.m., which is very inadequate. He has further submitted that the complainant-wife is shouldering the responsibility of their son, who is taking education and, therefore, she needs money to meet his expenses. Hence, the said order is to be set aside.

8. Per contra, the learned counsel for the respondent-husband has argued that though it is shown that the respondent-husband is earning Rs. 3 lakhs p.m., whenever he does not sail, he has to pay heavy income tax. She has further argued that on last time, he had paid income tax of Rs.8 lakhs. She has submitted that on an average the respondent-husband is hardly earning Rs.1,10,000/- p.m. She has further submitted that the respondent-husband is

paying all the medical expenses, educational expenses of a child directly to the school. She has further submitted that the complainant-wife is staying in the flat, which was earlier owned by the respondent-husband. Now, it is owned by the father of the respondent-husband. Under such circumstances, an amount of Rs. 30,000 /- p.m., which is asked to pay, is in fact on the higher side.

9. Perused the documents and record placed before this Court. Also perused the impugned orders. Admittedly, the respondent-husband is drawing salary more than rupees one lakh per month. Whether he is drawing salary of Rs. 3 lakhs p.m. or it comes to Rs. 1,10,000/- p.m. is a matter of evidence and scrutiny, which is to be done at the stage of final hearing of the Application. It is admitted fact that the complainant-wife is residing in the flat, which was earlier owned by the respondent-husband and subsequently, he transferring the said flat in the name of his father. However, the shelter is provided to the complainant –wife and their son. Besides Rs.30,000/-p.m., the respondent-husband is paying all the educational and medical expenses of the child and, therefore, I am not inclined to change the order of interim maintenance of Rs. 30,000/- p.m., which is paid to the complainant-wife. I am of the view that it is an adequate amount.

10. However, the submissions of the learned counsel for the complainant-wife that when the respondent-husband is sailing out of India, then in the case of

some urgent expenses of their child, she has no money, are correct. The submissions are accepted and, therefore, I am of the view that the respondent-husband is to be directed to create a permanent corpus of Rs. 1 lakh in the account, which stands jointly in the name of the husband and wife, which can be operated by one of the account holder. Out of this corpus, in the absence of the respondent-husband, the complainant-wife is entitled to withdraw money for expenses like buying accessories, clothes, fees of coaching class, trips, medical expenses of their child and the accounts accordingly can be presented in the Court after six months and again the respondent-husband shall keep the amount of Rs. 1 lakh constantly ready for their child.

11. With this, I dismiss both the Revision Applications with following order :

ORDER

One lakh corpus is to be created by the respondent-husband and it is to be kept in the joint account of the respondent-husband and the complainant –wife. The said money is to be utilized for the purpose of requirements of their child in the absence of the respondent-husband when he is offshore.

(MRIDULA BHATKAR, J.)