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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.361 OF 2017

Sunil Rajendra Singh & Ors.

..Applicants.

V/s.

State of Maharashtra & Ors.

..Respondents.

Mr.Nikhil H.Seth for the applicants.

Mr.H.J.Dedhia, APP for the respondent-State.

Ms.Sandhya Mailgir for respondent No.2.

CORAM: NITIN W.SAMBRE, J.

DATE : MARCH 23, 2018

PC:-

Heard respective parties.

2. Out of matrimonial dispute between the parties, along with an application being Case No.69/DV/2015 under section 12, an application under section 23 of the Protection of Women from Domestic Violence Act, 2005 ('the D.V. Act' for short) came to be

moved by the wife which is allowed on December 23, 2016 by the learned Metropolitan Magistrate, 53rd Court, Mulund, Mumbai by awarding maintenance of Rs.5,000/- per month which was confirmed on April 15, 2017 in Criminal Appeal No.20/2017 under section 29 of the D.V. Act. As such, this revision.

3. By inviting the attention of this Court to the contents of the application under section 23 of the D.V. Act and the salary slip extract of bank account, the learned counsel for the applicant would urge suppression of material facts from the Court below by the complainant-wife about her independent source of income as according to him, she is gainfully employed. He would urge that the judgment of the Apex Court in the matter of *Dalip Singh V/s. State of U.P. & Ors.* in *Civil Appeal No.5239 of 2002* decided on December 3, 2009 has held that a party approaching the Court with unclean hands is not entitled for any relief. He submits that both the Courts below have committed error of jurisdiction by failing to appreciate the same while awarding the maintenance of Rs.5,000/- per month.

4. The learned counsel for respondent No.2 supports the

order.

5. From the salary slip produced on record by the present applicant, it can be inferred that the applicant gets gross salary of more than Rs.70,000/- per month.

6. The learned Courts below having regard to the above referred material *viz.* contents in the application and the complaint, salary slip, bank statement noticed that respondent-wife has every right to live in standard, commensurate to the salary received by the husband. The standard of living of applicant *qua* his salary and award of meagre amount of maintenance of Rs.5,000/- was based on appreciation of the evidence *viz.* Bank entry of non-applicant and her alleged independent source of income, her present status i.e. she is no more in employment.

7. Though the learned counsel for the applicant-husband would harp upon the conduct of the wife *viz.* she has independent source of earning which material fact, according to him was suppressed, still it can be derived from both the impugned orders, that the Courts were alive to the said fact of independent source of income. As such, meagre maintenance amount of Rs.5,000/- from

the income of the applicant, who earns gross salary of Rs.70,000/- per month came to be awarded which, in my opinion, cannot be termed to be exorbitant.

8. In view of the above, I hardly notice any error of jurisdiction. The revision lacks substance and is dismissed.

(NITIN W.SAMBRE, J.)