

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

WRIT PETITION NO.3309 OF 2016

Shri. Anand Sadashiv Londhe

...Petitioner.

vs.

Rakhi Anand Londhe and anr.

...Respondent.

Mr. Ganesh Jadhav for the Petitioner.

Mr. Lalasaheb Bandal for Respondent No.1.

Smt. Veera Shinde, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 10th September, 2018

P.C.:

1. The petitioner husband is the original respondent in CC No.35/DV/2012 pending on the file of 32nd Metropolitan Magistrate Court, Bandra, Mumbai. The said case is filed by respondent No.1 wife under Section 12 and 19 of the Protection of Women from Domestic Violence Act, 2005.

In the said case, the respondent No.1 filed an application under Section 23 of the said Act for grant of interim maintenance. The said application was partly allowed by the concerned Magistrate by its Order dated 20.2.2013 and petitioner was directed to pay monthly maintenance

at the rate of Rs.10,000/- per month to respondent No1 from the date of filing of the application i.e. from 27.9.2012. The Criminal Appeal No.201 of 2013 preferred by the petitioner has been dismissed by the learned Ad-hoc Additional Sessions Judge for Greater Mumbai by its Order dated 1.1.2014. It is the case of the petitioner that, in view of the subsequent events which came to his knowledge after passing of the Order granting interim maintenance, he preferred an application dated 8.5.2015 under Section 25(2) of the said Act for modification/revocation of order dated 20.2.2013. The said application has been dismissed by the learned Magistrate by its Order dated 5.8.2016 on the ground that, the petitioner was not paying maintenance to respondent No.1. The aforesaid Orders dated 20.2.2013, 1.1.2014 and 5.8.2016 are impugned in the present petition.

2. At the out set, it is to be noted here that, the main application filed under Section 12 and 19 of the said Act bearing CC No.35/DV/2012 is pending for final adjudication before the learned Magistrate. It prima facie appears that, the learned Magistrate after taking into consideration the attending circumstances of the case has passed the Order dated 20.2.2013 thereby directing the petitioner to pay interim maintenance at the rate of Rs. 10,000/- p.m. to respondent No.1. The petitioner is at liberty to lead

evidence in support of his contention that, respondent wife is earning more amount than the petitioner and she has suppressed the said fact from the Court while allegedly procuring the said Order dated 20.2.2013.

3. As the main application for maintenance under the said Act is pending on the file of the Metropolitan Magistrate and this Court is of the view that, the learned Magistrate while passing the said impugned Order dated 20.2.2013 has not committed any error either in law or on facts, the said impugned Order does not require any interference by this Court in its extra ordinary jurisdiction under Article 227 of the Constitution of India. It further appears that, the Orders dated 1.1.2014 and 5.8.2016 also do not suffer from any irregularity or error.

4. In view of the above, the petition is dismissed.

5. The learned Metropolitan Magistrate seized of CC No.35/DV/2012 is hereby directed to expedite the hearing of the said case and make an endeavor to decide the same within a period of six months from the date of receipt of the present Order.

(A.S.GADKARI, J.)

