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

CRIMINAL WRIT PETITION NO.4415 OF 2015

Mrs.Sujata Appasaheb Arkade	..Petitioner.
V/s.	
The State of Maharashtra & Ors.	..Respondents.

Mrs.Manjula Rao for the petitioner.

Mrs.N.S. Jain, APP for the respondent-State.

Mr.H.S.Anand for respondents

CORAM: NITIN W.SAMBRE, J.

DATE : APRIL 10, 2018

PC.:-

Heard respective parties.

2. In a Domestic Violence proceedings bearing C.C.No. 20/DV/2013, the learned Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai ordered maintenance of Rs.12,000/- per month in favour of the applicant vide order dated March 11, 2014, which order was modified in an Criminal Appeal No.405/2015 by the learned Additional Sessions Judge, Greater Mumbai vide order dated August 19, 2015 under section 29 of the Protection of Women from Domestic Violence Act, 2005 to the extent of

Rs.10,000/- per month. As such this writ petition.

3. The learned counsel for the petitioner, Mrs.Rao would invite the attention of this Court to the affidavit filed in the present proceedings to claim that the properties held by respondent No.2 herein, gives substantial income. According to her, the order of payment of maintenance is not taken to its logical end as order passed by the Appellate Court is the subject matter of challenge in Criminal Application No.253 of 2016 in Criminal Revision Application (St) No.291 of 2016 with Criminal Application No.259 of 2016 wherein the proceedings for recovery is stayed. According to the learned counsel, the petitioner as yet, is not getting any amount for her maintenance.

4. *Per contra*, the learned counsel for respondent No.2 would urge that the petitioner has sold her property, as reflected in the impugned order which shows that she has received substantial amount which is sufficient to maintain her. He would then urge that the amount of Rs.60,000/- is already deposited in the aforesaid revision in addition to Rs.90,000/- which was paid by respondent No.2. He submits that there is no substance in the present petition and the same be dismissed.

5. The order of payment of maintenance passed by the learned Magistrate on March 11, 2014 sans reason as to the source of income of respondent, which should have formed basis for arriving at a conclusion *qua* income of respondent and out of the said income to what extent the present petitioner is entitled to maintenance.

6. The Appellate Court considered the source of income of respondent No.2 *viz.* the properties held by him and income received therefrom, to award maintenance of Rs.10,000/- per month.

7. The order of payment of maintenance of Rs.10,000/- appears to be commensurate with the known source of income of respondent No.2 *viz.* the rental income.

8. That being so, the well-reasoned order passed by the Appellate Court granting interim maintenance at Rs.10,000/- per month, in my opinion, does not warrant any interference in the extra ordinary jurisdiction. The petition, as such is dismissed.

(NITIN W.SAMBRE, J.)