

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

CRIMINAL REVISION APPLICATION No. 642 OF 2017

Shri Praful Vinayak Zombade	...Applicant
Vs.	
Sou. Madhuri Praful Zombade and Anr.	...Respondents

Mr. S.R. Moray i/b. V.S. Talkute for Applicant
Mr. S.S. Pednekar -APP for the State

CORAM : NITIN W. SAMBRE, J.
DATE: MARCH 22, 2018

P.C.

1. Under section 12 of the provisions under the Protection of Women From Domestic Violence Act, 2005 (for short 'the D.V. Act'), the Respondents approached the Court of the Judicial Magistrate, First Class claiming interim maintenance pursuant to the provisions of section 23 of the said Act.
2. The Court of Judicial Magistrate, First Class considering the occupation of the Applicant, awarded maintenance of Rs.20,000/- to the wife and Rs.10,000/- each to the two children vide order dated May 31, 2017 which was confirmed by the Learned Sessions Judge, Pune in Criminal Appeal No. 289 of 2017 decided on November 6, 2017.

3. The learned counsel for the Applicant- husband would urge that there are no findings on monthly income of the Applicant and, as such, the amount of maintenance awarded is disproportionate to the known source of income. Next submission of the learned counsel for the Applicant is the Respondent wife has her own business of running a beauty parlour and the documentary evidence i.e. the income tax returns are relied on. He submits that both these issues are not considered by the Courts below.

4. The filing of Income Tax returns by the Respondent wife demonstrating her income from the business of beauty parlour to the tune of Rs.2,00,000/- per year is not disputed. However, when confronted with the Applicant about the place, business is being operated for how long, by the Respondent wife, neither any documentary evidence depicting registration under the Shops and Establishment Act or any other material to infer the beauty parlour business by the Respondent wife is produced on record. The Income Tax Returns appears to have been filed when Applicant and Non-Applicant were residing together.

5. Both the Courts below have concurrently recorded the findings of fact that the present Applicant is in the construction business. The nature of work executed by him, logistical in-fracture, support he owns is taken into account by both the courts below.

7. Both the Courts below have concurrently held against the Applicant of awarding Rs.20,000/- to the wife and Rs.10,000/- each to the children, which view is based on the material available on record and upon appreciating its prima facie evidential value. Hence, no interference is warranted. Revision application is rejected. The observations made by this Court are prima facie in nature.

[NITIN W. SAMBRE, J.]