

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.220 OF 2017

Mrs. Keyuree Krunal Gala

.....Petitioner

Versus

Mr. Krunal Bharat Gala & Ors.

.....Respondents

Mr. Shailesh Ishwarlal Kantharia, Advocate for the Petitioner.

Mr. Vivek Gore for Respondent Nos.1 and 2.

Mr. J.P. Yagnik, APP for Respondent-State.

CORAM : SURENDRA P. TAVADE, JJ.

DATE : 13th DECEMBER, 2019.

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P. C. :

1. The petitioner wife has filed this petition challenging the order of Sessions Court for enhancement of maintenance granted to her and her son in C.C.No.42/DV/2013. It is an admitted fact that the petitioner is wife of respondent No.1. They have a son out of said wedlock. The petitioner had already filed a petition under Protection of Women from Domestic Violence Act,2005 in the Court of Metropolitan Magistrate, Andheri, Mumbai. It is submitted that the petitioner has submitted an application for interim maintenance which was objected by the respondent. After hearing the parties, Family Court has allowed the application of the petitioner granted her maintenance of Rs.25,000/- and Rs.10,000/- to her son.

2 The said order is under challenge. It is contended on behalf of the Ssp

petitioner that the Trial Court as well as Revisional Court has not considered income of the respondent in proper prospective. It is submitted that income certificate of the respondent No.1 is produced on record wherein it is clearly mentioned that net monthly income of the respondent No.1 was Rs.1,08,079/- for the months of November 2014 to December 2014 but the Trial Court had not considered the said income. It has taken into account the basic salary of Rs.53,958/- and passed order of interim maintenance. The said order was challenged before the Sessions Court under Revision but the Sessions Court has not used its discretion to interfere with the order of Family Court on the ground that there is no illegality or error committed by the Trial Court , hence petitioner has filed present writ petition.

3 It is submitted that the income of respondent No.1 is so high that more amount can be awarded to the petitioner and her son.

4 The petition is opposed by respondent No.1. It is submitted that respondent No.1 is required to maintain his aged parents. Similarly, he has to incur some other expenses. The petitioner is also earning income. He invited my attention to the cross examination wherein she has admitted that she has invested some huge amount in some companies. Therefore, it is submitted that there is no need to interfere with the order of the Trial Court.

5 On going through the impugned order passed by the Trial Court as well as Sessions Court, it appears that both the Courts considered the documentary evidence on record. There are some facts whereby it can be said that the petitioner is earning some income. It cannot be said that she is

living at the mercy of respondent No.1. No doubt, the respondent is duty bound to maintain his wife and son. Though the petitioner is earning something that will not absolve respondent No.1 from paying maintenance amount.

6 The learned counsel for the petitioner has invited my attention to pay slip of respondent No.1. It appears that respondent No.1 was drawing salary of Rs.1,08,079/- per month in the year 2014. Latest pay slips are not on record but from the said amount, respondent No.1 is liable to pay amount of Rs.25,000/- and Rs.10,000/- per month to the wife and son respectively and also has to maintain his parents and other social status. The Trial Court had used its discretion legally and properly. Similarly, the Revisional Court has also appreciated documentary evidence in proper prospective. Therefore, interim maintenance is just and proper. There is no need to interfere with the said order. Petition is dismissed.

[SURENDRA P. TAVADE, J.]