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

CRIMINAL REVISION APPLICATION NO.90 OF 2019

Mrs. Rehmatbi Shaikh Usman ... Applicant
V/s.
Farooque Usman Shaikh and anr ... Respondents

Mr. A. R. Bubere i/by F. Jude Sebastian Caitan, for the
Applicant.

Mr. N. B. Patil, APP for respondent State.

CORAM : N. J. JAMADAR, J.

DATE : 18th December, 2019.

PC. :

- 1] Heard the learned counsel for the applicant.
- 2] The challenge in the instant Revision Application is to an order dated 14th November, 2018, passed by the learned Additional Sessions Judge, in Criminal Appeal No.183 of 2018, whereby the appeal preferred by the applicant against the order passed by the learned Metropolitan Magistrate, 69th Court Mazgaon, Mumbai, refusing interim relief in a proceeding under Protection of Woman from Domestic Violence Act, 2005 (for short “D.V. Act”), being C.C. No.61/DV/2017 came to be dismissed.
- 3] The learned Magistrate and the learned Sessions Judge have proceeded on the premise that the dispute between the applicant and

respondent No.2/the daughter-in-law is essentially over the ownership of the flat which is in the occupation of respondents and the case of domestic violence is prima facie not made out.

4] The learned counsel for the applicant assails the view recorded by the learned Magistrate and the learned Additional Sessions Judge, as being not borne out by the material. The applicant, who is a 80 year old lady, is forced to reside with her daughter. Therefore, the impugned order is required to be interfered with.

5] From the perusal of the averments in the application, filed by the applicant, it becomes evident that the bone of contention is entitlement of the respondents, over the flat which they are in occupation of. There are also assertions which are in the nature of interim protection which the applicant claims.

6] From the perusal of the order, it seems that the learned Magistrate and learned Additional Sessions Judge, have recorded a prima-facie view while rejecting the prayer for interim relief. The main application is still pending for adjudication. Therefore, it would be in the fitness of things to direct the learned Magistrate to decide the C.C. No. 61/DV/2017 as expeditiously as possible as the applicant is a 80 year old lady.

7] In the event, the application is not decided within a period of four months, the applicant shall be at liberty to move application for interim

relief in the nature of monetary protection.

8] If such an application is preferred, the learned Magistrate shall decide the same, in accordance with law, and without being influenced by any of the observations made in the orders impugned herein.

9] With the aforesaid directions, the Revision application stands disposed of.

[N. J. JAMADAR, J.]