

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI REVISION APPLICATION NO. 247 OF 2015

WITH

CRIMINAL APPLICATION NO. 229 OF 2015

Girish Shivram Chavan & ors.

...Applicants

Versus

Sou. Prajakta Girish Chavan & anr.

...Respondents

Mr. Abhijeet A. Joshi, a/w Ms. Varsha Sawant, for the
Applicants.

Ms. Mansi S. Bane, for Respondent no.1.

Mr. N. B. Patil, APP for the State/Respondent no.2.

CORAM: N. J. JAMADAR, J.

DATED : 13th DECEMBER, 2019

PC:-

1. Heard Mr. Joshi, the learned Counsel for the applicant.
2. By order dated 6th December, 2019, this Court has made it clear that if the applicants do not deposit the amount of Rs.1,93,000/-, which they were directed to deposit by order dated 15th February, 2016, this Court would not entertain the revision application and the same would be disposed of, on that count itself.
3. Mr. Joshi urged that the applicant is not in a position to deposit the amount as ordered by this Court on 15th February, 2016. Yet, having regard to the fact that respondent no.1 wife has left marital home on her own and had never turned up to

exercise the visitation rights and meet her daughter, Pooja, granted by the learned Magistrate by the judgment and order dated 29th November, 2012, and the daughter has now attained majority, the conduct of respondent no.1 dis-entitles her to claim maintenance. It was further submitted that the learned Magistrate as well as the learned Additional Sessions Judge have committed a manifest error in placing reliance upon the report submitted by the Protection Officer to draw the inference of cruelty and, thus, the applicant be heard on merits of the revision application, despite default on the part of the applicant in depositing the amount of maintenance payable to respondent no.1.

4. The learned Magistrate, Court No.6, Pune, by the judgment and order dated 29th November, 2012 in Miscellaneous Application No.1484 of 2010, had granted the reliefs under the Protection of Women from Domestic Violence Act, 2005 ('the Act'), in the nature of a monetary relief, by way of maintenance of Rs.3,000/- per month to respondent no.1 and also the visitation rights to meet daughter Pooja. The fact that respondent no.1 has never made any effort to meet Pooja, even if taken at par, would not impinge upon her claim for maintenance to which she is entitled, being dependent on the applicant.

Thus, the submission on behalf of the applicant that by failure to avail one of the reliefs, the respondent no.1 has dis-entitled herself from even claiming maintenance, does not merit acceptance.

5. Even otherwise, having regard to the quantum of maintenance i.e. Rs.3,000/- per month, which can be said to be the bare minimum that respondent no.1 needs to keep her body and soul together, no interference is warranted in the orders impugned herein. The default on the part of the applicant - husband to deposit the amount of maintenance, in these circumstances, dis-entitles him to be heard on the merits of the matter.

6. Hence, the revision application stands dismissed.

7. In view of dismissal of the revision application, interim application does not survive and accordingly stands dismissed.

[N. J. JAMADAR, J.]