

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2805 OF 2019**

Dr. Santosh Kumar Shetty : **Petitioner.**
Versus
Mrs.Smita Shetty and anr. : **Respondents.**

Mr. Niranjan P Shimpi for the Petitioner.
Mrs. Smita Shetty – Respondent No.1 in person.
Mrs. G P Mulekar, APP for the Respondent/State.

CORAM : S. S. SHINDE, J
DATE : 07th August 2019

P.C.

1 Heard the learned counsel for the Petitioner, Respondent No.1 who appears in person and the learned APP for the Respondent/State.

2 The learned counsel appearing for the Petitioner submits that though sufficient evidence was produced before the Courts below in support of the contention of the Petitioner that his income is Rs.30,000/- per month, even an assessment order under Section 143 of the Income Tax Act, as also the other documents were also produced before the Courts below, however, the Trial Court erroneously held that contesting Respondent is entitled for interim maintenance and rent as mentioned in the impugned orders. It is submitted that the contesting Respondent did not produce any document before the Courts below. However, relying upon her bare words, the Trial Court has passed the order thereby issuing directions to the Petitioner to pay Rs.25,000/- per month towards maintenance and Rs.15,000/- towards monthly rent from

the date of order under Section 19 r/w 23 of the Protection of Women from Domestic Violence Act. Therefore the learned counsel for the Petitioner submits that the Petition deserves consideration.

3 On the other hand, the contesting Respondent who appears in person, invites this Court's attention to the findings recorded by the Courts below and submits that the Courts below have taken into consideration the documents placed on record and also the income of the Petitioner, and thereafter necessary directions have been given to the Petitioner to pay maintenance and rent to the contesting Respondent.

4 Heard the learned counsel for the Petitioner and the contesting Respondent, who appears in person. With their able assistance perused the pleadings and grounds mentioned in the Petition, other documents and material placed on record and the reasons assigned by both the Courts below while allowing the prayer of the contesting Respondent for interim maintenance and directing to the Petitioner to pay monthly rent to her.

5 It appears that the Trial Court upon appreciation of rival contentions of the parties, directed the Petitioner to pay maintenance of Rs.25,000/- per month and Rs.15,000/- towards monthly rent, keeping in view the prevailing rents of the premises in the city. The Appellate Court while

considering the rival contentions, in paragraph 9 of its judgment, considered the need of the contesting Respondent and also the educational need of the daughter of the Petitioner and the contesting Respondent, and accordingly confirmed the order passed by the Trial Court.

6 The orders passed by the Trial Court as well as the Appellate Court appear to be in consonance with the material placed on record. There is no perversity as such and therefore no case for interference at the hands of this Court in its writ jurisdiction is made out. The above Writ Petition is accordingly rejected. However, the ends of justice would be met in case the learned Metropolitan Magistrate, 72nd Court, Vikhroli, Mumbai is directed to hear and decide the CC No.143/DV/2015 as expeditiously as possible however within a period of six weeks from today. It is expected that the Trial Court shall expedite the hearing of the aforesaid case, and if necessary conduct the hearing on day-to-day basis, and deliver final judgment within the time frame as afore-stated.

7 The observations made herein above are prima facie in nature and confined to the adjudication of the present Writ Petition. The concerned learned Metropolitan Magistrate to decide the aforesaid Criminal Case on its own merits and in accordance with law.

[S. S. SHINDE , J]