

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

CRIMINAL REVISION APPLICATION st. NO.552 OF 2017

Pratibha Satish Dahiphale @
Pratibha Ashok Palwe

... Applicant

Vs.

Satish Pandurang Dahiphale & Ors.

... Respondents

Mr.Dharmesh Gogri i/b Ms.Padma Tatode for the Applicant
Mr.R.A. Zade, for Resp. Nos.1 to 7
Mr.A.R. Patil, APP, for the Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: FEBRUARY 20, 2019

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. In this revision, the order dated 3.2.2017 in Criminal Appeal No.6 of 2017 passed by the learned Additional Sessions Judge, City Sessions Court, Borivali Division, Dindoshi, Mumbai, is challenged by the applicant/wife. The applicant/wife has filed an application under section 12 of the Protection of Women from Domestic Violence Act which was numbered as C.C. No.259/DV/2015, which is pending. In the said application, the learned Magistrate has passed an order of interim maintainance of

Rs.10,000/- per month from the date of application i.e., 28.11.2015. There is no issue out of the wedlock. The respondent is serving as a police constable in the police department. He challenges the order of payment of interim maintainance of Rs.10,000/- by filing Criminal Appeal No.6 of 2017. The said appeal was partly allowed by order dated 3.2.2017 passed by the learned Additional Sessions Judge. The learned Additional Sessions Judge reduced the said amount upto Rs.5,000/- per month and that amount is made payable till the conclusion of C.C. No.259/DV/2015. The applicant/wife has challenged the said order in this revision.

3. Heard submissions of the learned Counsel for both the sides. Perused the impugned order of the learned Additional Sessions Judge. On perusal of the record, it is found that the civil Court in the petition for divorce i.e., the learned Civil Judge, Senior Division, Shrigonda has directed the husband to pay Rs.3,000/- per month as interim alimony and it is informed that he has been paying that amount of Rs.3,000/- regularly in the Court. The learned Additional Sessions Judge in para 4 of his order has discussed the financial position of the respondent/husband that he

is drawing an emolument of Rs.28,738/- in August, 2016 and after deduction of Rs.16,796/-, which is the financial liability, he is getting net salary of Rs.11,841/-. So, the learned Additional Sessions Judge has taken a view that the amount of interim maintenance of Rs.10,000/- per month is exorbitant and unwholesome.

4. The view taken by the learned Additional Sessions Judge cannot be faulted with in view of the financial condition of the respondent/husband and also as he is paying Rs.3,000/- per month as interim maintenance in the divorce petition. On query, the learned Counsel for the respondent/husband informed that the amount of Rs.1,90,000/- @ Rs.5,000/- per month in the proceedings under D.V. Act is due. In the circumstances, therefore, the revision application is dismissed with the following order:

- i) The order dated 3.2.2017 passed by the learned Sessions Judge is hereby maintained and the revision is dismissed.

ii) The respondent/husband shall deposit Rs.1 lakh on or before 7.3.2019 in the trial Court i.e., 10th Metropolitan Magistrate at Andheri and shall further deposit a sum of Rs.90,000/- on or before 28.3.2019.

iii) The respondent / husband shall continue to pay Rs.5,000/- in the proceedings under the Protection of Women from Domestic Violence Act and also the amount of Rs.3,000/- in the divorce proceedings till both the proceedings are decided finally.

iv) If at all any extra amount is calculated and due, the respondent/husband shall make good of it.

v) The trial Court to expedite the matter.

5. The Criminal application is disposed of accordingly.

(MRIDULA BHATKAR, J.)