

BDP-SPS

Bharat
D.
Pandit
Digitally signed
by Bharat D.
Pandit
Date: 2020.02.04
14:27:07 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 27 OF 2020**

Sanjay Ramniklal Doshi

..... Applicant.

V/s

Krishna Sanjay Doshi

and Others

..... Respondents.

Mr. Aslam Khan for the Applicant.

Mrs. P.N. Dabholkar, APP for the State.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 31, 2020

P.C.:-

1] The case of the Applicant-husband is, under Domestic Violence Act, Metropolitan Magistrate has awarded compensation of Rs 7,000/-, whereas vide impugned order, Family Court in exercise of powers under Section 125 of Cr.P.C. has awarded maintenance of Rs 10,000/-.

2] Apart from legal ground of award of dual maintenance i.e. one under Domestic Violence Act and another under Section 125 of Cr.P.C., contention of Mr. Khan, learned Counsel for the Applicant-husband is, award of maintenance is disproportionate to the known

source of income of the Applicant -husband. He further claims that court below has not considered source of income of Respondent-wife, as she was gainfully employed as a teacher and after leaving the said job, she is conducting tutions.

3] Considered submissions.

4] Fact remains that out of matrimonial discord, two proceedings; one under Section 125 of Cr.P.C. and another under the provisions of Domestic Violence Act are pending adjudication. The Court, while dealing with resistance shown by the Applicant-husband to the claim for maintenance, considered income tax returns of the Applicant-husband for the assessment years 2013-2014 and 2014-2015, his insurance policies which are relied on in the proceedings under Domestic Violence Act for awarding maintenance of Rs 7000/-.

5] The Family Court after considering respective submissions awarded maintenance of Rs 10,000/- to the son. As such, total amount of maintenance awarded is around Rs 17,000/- per month. Since the order is interim in nature and based on sufficient evidence,

in my opinion, award of maintenance of Rs 10,000/- does not warrant any interference.

6] However, this will not preclude the Applicant-husband from moving before the Court seeking modification of the order under Section 127 of the Cr.P.C., as it is claimed by the Applicant-husband that son Nakul has attained majority.

7] By maintaining aforesaid liberty in favour of the Applicant-husband, no error of jurisdiction could be noticed which warrant interference in the revisional jurisdiction. Revision Application fails and same stands dismissed.

(NITIN W. SAMBRE, J.)