

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.385 OF 2020.

VIKRAM MANMOHAN KHURANA)...PETITIONER.

V/s.

**PURNIMA VISHNU THAKUR AND
ANOTHER)...RESPONDENTS**

Mr.Sartaj Shaikh, Advocate for the Petitioner.

Mr.Prashant G. Pandey a/w Advocate Tushar Halwai,
Advocates for the respondent No.1.

Mr.R.M.Pethe, APP for the Respondent no.2 – State.

CORAM : A. M. BADAR, J.

DATE : 25TH FEBRUARY 2020

P.C. :

1. By this petition, the petitioner/original respondent/
husband is challenging the order passed below Exhibit Nos.61
and 62, in an unregistered criminal appeal under Section 29
of the Protection of Women from Domestic Violence Act, 2005

(to be referred to as the ‘Domestic Violence Act’ for the sake of brevity).

2. Heard learned counsel for the petitioner/original respondent/husband. She argued that only formal amendment was sought in the application for stay as well as in a memo of appeal. The date of the impugned order was sought to be changed from 28.08.2019 to 20.08.2019. Her applications for amendment at Exhibit 61 and 62 were allowed with onerous condition of depositing the entire amount of the interim maintenance due and payable from January 2019 to January 2020. In submission of the learned counsel for the petitioner, for allowing formal amendment, the learned appellate court ought not to have imposed such a drastic condition which ultimately result in rendering her appeal infructuous.

3. As against the, the learned counsel appearing for the contesting respondent/original aggrieved person argued

that the petitioner/husband is in arrears of Rs.4.75 lakhs towards the interim maintenance and the learned appellate court has not committed any error in directing the original respondent to deposit the entire arrears of the maintenance.

4. I have considered the submissions so advanced and also perused the impugned orders.

5. Application for amendment of memo of appeal, so also, application for the amendment of the stay application came to be allowed by directing the petitioner/original respondent to deposit the entire arrears of the interim maintenance due and payable from January 2019 to January 2020 with adjustment of amount which might have been paid earlier.

6. By order dated 20.08.2019, the learned trial Magistrate was pleased to direct the petitioner herein/original respondent to pay the interim maintenance of Rs.50,000/- per

month to the aggrieved person from the date of the application i.e. 29.01.2019 till disposal of the application under Section 12 of the Domestic Violence Act. This order is the subject matter of the appeal before the learned Additional Sessions Judge. It is seen from the order sought to be impugned in the appeal that, the learned trial Magistrate on considering the income tax returns of the husband was pleased to direct the payment of interim maintenance at the rate of Rs.50,000/- per month. The impugned orders are only directing deposit of balance amount of the interim maintenance. The impugned orders nowhere states that on deposit of the amount of the interim maintenance the same should be disbursed to the aggrieved person. Hence, question of appeal rendering infructuous does not arise.

7. Considering the fact that provisions of the Domestic Violence Act and more particularly, Section 23

thereof which is a piece of welfare legislation, no infirmity can be found in the impugned orders directing deposit of arrears of interim maintenance due and payable to the aggrieved person as condition for allowing the applications for the amendment.

8. The petition, therefore, fails and same is dismissed. However, the petitioner is permitted to deposit the entire balance amount of interim maintenance before the learned trial Magistrate within a period of 4 weeks from today.

(A. M. BADAR, J.)