

Rajesh Suresh Thakker and ors .. Petitioners
Versus
Vanshika Rajesh Thakker and anr .. Respondents

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CORAM: BHARATI DANGRE, J.
DATED : 4th MARCH 2020

P.C:-

1 The petitioner husband has filed the present Writ
Petition challenging the order below Exhibit-13 passed by the
Addl. Chief Metropolitan Magistrate, Mumbai on an application
filed under Section 23 of the Protection of Women from
Domestic Violence Act, 2005. The impugned order directs him
to pay an amount of Rs.10,000/- per month towards maintenance
of the wife and amount of Rs.5,000/- per month for maintenance
of the minor son Harman.

2 The order passed on 15th February 2016 came to be
modified in the Criminal Appeal No.276 of 2016 instituted by

the petitioner, and on 1st August 2017 the modification was granted to the effect of handing over the custody of the minor son Harman, keeping intact the order for grant of maintenance to the tune of Rs.10,000/- to the wife which was directed to be paid every month.

3 Counsel for the petitioner in support of his claim would urge the Court to quash the impugned order on the ground that on a bare statement made by the applicant that the husband is earning an amount of Rs.One lakh, the claim of maintenance of Rs.10,000/- has been granted and according to him, this do not justify the order. In response to the application where a categorical statement is made by the applicant that the husband is extending his services through Amba Parivar Charitable Trust and is engaged in organized religious programmes, ceremonies and prayers, he responded by stating that he is merely doing it as a social work and vaguely denied that his earnings are Rs.One lakh per month as alleged. He, however did not disclose in his written statement what are his earnings.

4 In the light of the peculiar facts, the Chief Metropolitan Magistrate, considering the need of the wife and on an assumption that the husband is engaged into the activity which is yielding him some income, though not Rs. One lakh per month has derived a quantum of maintenance to be Rs.10,000/-.

5 In absence of any proof being adduced by the parties as to the exact earning, commensurating with the need and necessity of the wife to be maintained, the Court had undertaken the work of calculating the quantum and the petitioner is not able to demonstrate any perversity in arriving at the said finding.

6 The Writ Petition, therefore, deserves a dismissal by upholding the orders passed by the Courts below and the Writ Petition is dismissed.

7 According to the learned counsel for the respondent, by calculating the amount due to her towards maintenance in terms of the impugned order, as on March 2020, an amount of Rs.Seven lakhs is due and payable. Learned counsel for the respondent submits that in furtherance of the directions issued by this Court, an amount of Rs.3,30,000/- is deposited till date. The respective counsel have invited my attention to the order dated 12th February 2020 passed by my predecessor (Hon'ble Justice Sambre), who has granted the Criminal Application No.401 of 2019 filed by the respondent seeking permission to withdraw an amount of Rs.70,000/- deposited in this Court and so also amount of Rs.2,50,000/- deposited in the Court of Addl Chief Metropolitan Magistrate, Mumbai.

8 Counsel for the respondent has expressed a difficulty. According to her, after marriage she has become Mrs.Vanshika Rajesh Thakker but the bank accounts belonging to her are in her maiden name: Ms.Geeta Bansilal Thakker. She is apprehensive that in view of the variance in the name, if the Registry of the respective Court where the amount is deposited will issue a Pay Order, Demand draft or Cheque of the deposited amount, she will not be in a position to encash the same in the bank accounts because her name in the Petition is referred to as “Mrs.Vanshika Rajesh Thakker” and the accounts are not in the said name.

9 The petitioner’s apprehension is unfounded. There can be a solution to the issue. It is directed that the Registry of this Court as well as the Court of Addl. Chief Metropolitan Magistrate, Sewree Mumbai, on an application filed by the respondent adducing proof that she is Mrs.Vanshika Rajesh Thakker and her maiden name is Ms.Geeta Bansilal Thakker and on being satisfied is directed to do the needful in terms of the order dated 12th February 2020 and disburse the amount in her favour which was directed to be deposited towards arrears of maintenance due to her.

10 On being inquired as to within what period of time the amount of maintenance due would be paid to the respondent, the learned counsel for the petitioner on instructions of his client

who is present in the Court make a statement that he would deposit the remaining amount of arrears of maintenance within a period of three months from today in the Court of Chief Metropolitan Magistrate, Sewree, Mumbai and on being depositing the said amount the respondent would be permitted to withdraw the said amount on adducing the similar proof about her identity.

11 With the aforesaid directions, Criminal Writ Petition is disposed of.

SMT. BHARATI DANGRE, J