

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 6206 OF 2019

Sweta Vinay Tibrewal

.. Petitioner

Versus

The State of Maharashtra & Anr.

.. Respondents

-
- Mr. A.M. Saraogi for the Petitioner
 - Mr. H.J. Dedhia, APP for the State
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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 26, 2020.
(Through Video Conferencing)

P.C.:

1. Heard Mr. A.M. Saraogi, learned counsel appearing on behalf of the petitioner and Mr. H.J. Dedhia, learned APP.

2. This petition has been filed by the petitioner under the provisions of Articles 226 and 227 of the Constitution of India for the following reliefs:-

- (a) that this Hon'ble Court be pleased to pass appropriate writ, order and direction against the Respondent No. 2 to forthwith comply with the orders being the orders dated 12th July, 2016 passed in D.V. Application No. 146 of 2015 passed by the Ld. Metropolitan Magistrate 67th Court at Borivali, Mumbai or in alternate, necessary distress warrant and arrest warrant be

issued against the Respondent No. 2 for non compliance of the said orders on such terms as this Hon'ble Court may deem fit and proper;

- (b) Interim and ad-interim reliefs in terms of prayer clause (a) above be granted;
- (c) Any other and further reliefs as the nature and circumstances of the case may require be granted;

3. The petitioner is the wife and victim of a domestic violence case. Mr. Saraogi submits that there are two concurrent orders viz; order dated 12.7.2016 passed by the trial Court and order dated 2.7.2019 passed by the appellate Court which are in favour of the petitioner. He submits that under the aforesaid trial Court's order, there is direction to the Respondent No. 2 to pay maintenance amount of Rs. 7000/- per month to the petitioner (wife). He submits that respondent No. 2 (husband) has never paid the aforesaid maintenance which has been directed by the trial Court. He submits that even after passing of the appellate order upholding the trial Court's order, respondent No. 2 has failed and neglected to pay the maintenance amount. He submits that during the interregnum, the petitioner (wife) was required to forcibly vacate the residential flat along with her two daughters due to the defaults committed by respondent No. 2 (husband) in payment of EMIs of the said flat and at

present the petitioner (wife) is in complete distress.

4. Mr. Saraogi further submits that the petitioner had preferred an application before the Metropolitan Magistrates, 67th Court at Borivali for seeking issuance of the distress warrant / arrest warrant against respondent No. 2 (husband) as stated in paragraph 5 of the petition. He submits that due to the present pandemic situation, there were certain difficulties and the Court could not proceed with the hearing of the said application as the papers were not traceable.

5. Mr. Saraogi requested that in the interest of justice, the petitioner be permitted to file a fresh application for seeking issuance of distress warrant / arrest warrant against respondent No. 2 (husband) in accordance with law and sought disposal of the petition.

6. Considering the averments made in the petition and the submissions made by the learned counsel appearing on behalf of the petitioner, this petition can be disposed of with the following directions:-

(a) The petitioner is permitted to file a fresh application seeking issuance of distress warrant / arrest warrant against respondent No. 2 in the appropriate Court i.e. Metropolitan Magistrates 67th Court at Borivali in Criminal Case No. 146/DV/2015 in accordance with law.

(b) If the petitioner files the aforesaid application, the Court shall make an endeavor to dispose of the same as expeditiously as possible and in any event, within a period of six weeks from the date of filing of the said application in accordance with law.

7. Petition is disposed of on the above terms with no order as to costs.

8. This order will be digitally signed by the Private Secretary of this Court. All concerned to act on production by fax or email of a digitally signed copy of this order.

[MILIND N. JADHAV, J.]