

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

51 CRIMINAL REVISION APPLICATION NO.69 OF 2020

**VAIBHAV S/O. SUKRAM CHAUDHARI
VERSUS
JYOTI W/O. VAIBHAV CHAUDHARI AND ANR**

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Advocate for Applicant : Party In Person.
Advocate for Respondent : Party In Person.

**CORAM : MANGESH S. PATIL, J.
DATE : 01.03.2021.**

PER COURT :

By prayer clause 'G' the applicant-husband is seeking a direction to the Trial Court to initiate a proceeding against the respondent-wife invoking the powers under Section 340 of the Code of Criminal Procedure.

2. The applicant in person seeks leave to withdraw the prayer. Leave is granted. Prayer clause 'G' stands deleted.

3. The husband is before this Court being aggrieved and dissatisfied by the grant of ad interim maintenance to the respondent-wife by the concerned Magistrate in a proceeding initiated by her under Section 12 of the Protection of Women from Domestic Violence Act at the rate of Rs. 4,000/- per month and being aggrieved and dissatisfied by the dismissal of his appeal by the learned Additional Sessions Judge.

4. After having heard both the sides in person and perusing the record it transpires that the couple was married on 01.07.2017. Allegations of the wife are to the effect that since after marriage she was subjected to physical and mental torture. He started suspecting her fidelity, insulted her father, defamed her by circulating clips through phone. There was also demand for money and lastly he left her at her parental home on 22.12.2017. He

further declared that he would not allow her to cohabit unless his demands were met. She had to initiate a proceeding under Section 498A of the Indian Penal Code against him. He is a Class-I Government Officer earning Rs. 60,000/- to 65,000/- per month and she being incapable of maintaining herself claimed ad interim maintenance.

5. The applicant-husband appeared and contested the proceeding. He contended that since she was only child of her parents she was not comfortable while cohabiting with him in a joint family. She was insisting him to have a separate residence. She had willingly left his company. Several attempts were made by issuing notices and e-mails requesting her to resume cohabitation but she refused without any rhyme or reasons and prayed to dismiss the application.

6. Both the sides have taken me through the record. It is apparent that the matter was at a preliminary stage while the impugned order directing ad interim maintenance was passed and confirmed by the Sessions Court. It transpires that subsequently the matter had reached the stage of hearing/trial. The respondent-wife filed her affidavit in lieu of examination in chief. However, as can be seen from the orders passed by the learned Magistrate on 19.12.2020, in spite of passing of several orders directing him to deposit arrears of maintenance he failed to deposit it and even failed to conduct her cross-examination. The matter is awaiting her cross-examination to be conducted on his behalf for last more than one and half year.

7. Coupled with the aforementioned state of affairs, the very fact that he has also filed a proceeding for divorce, is sufficient at this juncture to conclude that the respondent wife is entitled to claim ad interim maintenance on the ground of domestic violence. Considering the occupation of the husband the quantum fixed by the Trial Court and confirmed by the Appellate Court is not at all exorbitant.

8. There are concurrent findings recorded by the two Courts below. There being nothing perverse, arbitrary or capricious to enable this Court to intervene while exercising revisional jurisdiction, the Revision is liable to be dismissed.

9. The Revision is dismissed.

(MANGESH S. PATIL, J.)

mkd/-