

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.61 OF 2020**

Manish Vilas Chavan & Ors.

....Petitioners.

Vs.

Dr. Pooja Manish Chavan & Anr.

....Respondents.

Mr. Vikas Shivarkar for the Petitioners.

Mr. Bhupesh Dhumatkar i/by Alisha Pinto for the Respondent No.1.

Smt. Rutuja Ambekar, APP for the Respondent No.2-State.

CORAM : A. S. GADKARI, J.**DATE : 22nd MARCH, 2021.****PC.:-**

By the present Petition, the Petitioners-Original Respondents have impugned Judgment and Order dated 7th November, 2019 passed by the learned Additional Sessions Judge-5, Nashik in Criminal Appeal No.151 of 2019. The Appellate Court has enhanced maintenance amount to Rs.10,000/- per month in favour of the Respondent No.1-wife from Rs.1,000/- granted by the Trial Court, below Exh-6 in Criminal M.A. No. 1344 of 2018 filed under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (for short, "*the D.V Act*")

The said Judgment and Order dated 7th November, 2019, is impugned herein.

2 Heard Mr. Shivarkar, learned Advocate for the Petitioners, Mr.

Dhumatkar, learned Advocate for the Respondent No.1 and Smt. Ambekar, learned APP for the Respondent No.2-State.

3 Record indicates that, the Respondent No.1 filed an Application under Sections 12, 18, 19, 20 and 22 of the D.V. Act in the Court of Judicial Magistrate, First Class, Nashik. Respondent No.1-wife also filed an Application under Section 23 of the D.V. Act, on 3rd August, 2018 for interim relief. The Trial Court by its Order dated 7th May, 2019, was pleased to grant interim maintenance @ Rs.1,000/- p.m. in favour of the Respondent No.1, from the date of Application till final decision of the said case.

Feeling aggrieved by the said meager compensation awarded by the Trial Court, Respondent No.1 preferred Criminal Appeal No.151 of 2019 in the Court of Additional Sessions Judge, Nashik. As noted earlier the Appellate Court by its Judgment and Order dated 7th November, 2019, has enhanced the compensation from Rs.1,000/- to Rs.10,000/- p.m. in favour of the Respondent No.1.

4 It *prima facie* appears from record that, the Petitioner No.1 is working as an Assistant Civil Engineer in PW Division, Pune. The salary slip annexed by the Petitioner No.1 to the present proceedings discloses that, his total emolument is Rs.38,176/- and, after all the deductions, his net pay is Rs.13,619/-.

5 Admittedly, there are no issue arising out of the wedlock of Petitioner No.1 and Respondent No.1. Record further indicates that, the

Respondent No.1 has recently completed her post-graduation in Public Health and is unemployed as of today.

6 After taking into consideration the attending circumstances of the present case and the fact that, the Application preferred by the Respondent No.1 under Section 12 and allied Sections of D.V. Act is pending for the final adjudication before the Trial Court, this Court is of the view that, for the time being compensation of Rs.7,500/- p.m. is sufficient for the Respondent No.1 for her maintenance.

The Order passed by the Appellate Court, dated 7th November, 2019 is accordingly modified to that extend.

7 As directed by the Trial Court by its Order dated 7th May, 2019, the Petitioner No.1 is directed to pay maintenance amount from the date of filing of M.A. No. 1344 of 2018.

The Petitioner No.1 is directed to clear entire arrears amount as of today within a period of four weeks from today, without seeking further extension in that behalf. If the Petitioner No.1 fails to deposit entire arrears of maintenance, within the stipulated period as directed herein, the Respondent No.1 will be at liberty to execute this Order through the Trial Court.

Petition is partly allowed, in the aforesaid terms.

(A.S. GADKARI, J.)