

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Application (APL) No. 479 / 2020

Kamal Kumar Ganesh Pathak and Ors. .. **Applicants**

Versus.

Jyoti Kamal Pathak and Anr. .. **Respondents**

Mr. Shailesh Kantharia for the Applicants.

Mr. Shanu/Sanjay Raikar i/by K.L. Vyas, Advocate for Respondent.

Mr. A.R. Patil, APP for State.

CORAM : SANDEEP K. SHINDE J.

DATE : 21st OCTOBER, 2021.

P.C. : -

1. Applicant-husband was directed to pay maintenance @ Rs. 6000/- per month to the Respondent-wife in the proceedings instituted by her under Section 12 of the Protection of Women from Domestic Violence Act, 2005. Besides the monetary relief in the form of maintenance, such other

reliefs were granted in favour of Respondent-wife vide judgment and order dated 24th December, 2018 passed by the 5th Judicial Magistrate First Class, Thane.

2. Feeling aggrieved by this judgment and order, husband preferred appeal under Section 29 of the D.V. Act alongwith an application, seeking condonation of 40 days delay caused therefore. This application, seeking condonation of delay being M.A. No. 184/2019, was rejected by Ad-hoc District Judge-3, Thane. Whereafter, this application is preferred under Section 482 of the Code of Criminal Procedure, 1973.

3. Heard. Learned Counsel for the parties. Perused the impugned order.

4. Learned Counsel for the Respondent-wife vehemently opposed the application and contended

that since the date of the order passed in D.V. application No. 214/2017, the Applicant No.1 has paid Rs. 30,000/- as against the total arrears of maintenance of Rs. 2,04,000/-. It is argued that the applicant be directed to deposit the entire amount and thereafter Court may condone delay, if "sufficient cause" is shown.

5. Mr. Kantharia, on instructions submitted that till date, the Applicants have deposited Rs. 1,19,000/- in the bank account of Respondent-wife; however, learned Counsel for Respondent disputes this fact.

6. Be that as it may, the Applicants shall pay the balance amount Rs. 84,000/- to the Respondent-wife within eight weeks from today.

7. In consideration of the facts of the case and in view of the averments made in the application, I am

satisfied that, 'sufficient cause' has been shown for condoning delay caused in preferring the appeal under Section 29 of the D.V. Act against the judgment and order dated 24th December, 2018 in D.V. Application No. 214/2017 passed by the J.M.F.C., Thane.

8. Thus, the application is allowed in the aforesaid terms and disposed of accordingly.

9. Parities are directed to cause their appearance before the learned Additional Sessions Judge, Thane on 23rd November, 2021.

(SANDEEP K. SHINDE, J.)

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