

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CRIMINAL REVISION APPLICATION NO.159 OF 2022
WITH REVN/252/2022

PRATAP SOPAN SHIVSHARAN
VERSUS
SHAILAJA PRATAP SHIVSHARAN AND OTHERS

Cri.Rev.Appln. No.159 of 2022

Mr.V.Y. Bhide, Advocate for the applicant.

Mrs.Ranjana D. Reddy, Advocate for respondent No.1.

Mr.Shaikh Mazhar A. Jahagirdar h/f. Mr. Nikhil S. Jaju, Advocate for respondent Nos. 2 to 5.

Cri.Rev.Appln. No.252 of 2022

Mrs.Ranjana D. Reddy, Advocate for the applicant.

Mr.V.Y. Bhide, Advocate for respondent No.1.

Mr.Shaikh Mazhar A. Jahagirdar h/f. Mr. Nikhil S. Jaju, Advocate for respondent Nos. 2 to 5.

CORAM : KISHORE C. SANT, J.
DATED : 15.09.2022

PC :-

01. Both the Revision applications are arising out of an interim application filed in the proceedings under the provisions of the Protection of Women from Domestic Violence Act. The wife filed PWDVA proceedings bearing Criminal Misc. Application No.555 of 2017 praying for various reliefs under the Act. In the said proceedings she had filed an application below Exh.16 praying for residence order. It is her specific case that the respondents in the original proceedings are residing in a bungalow at Sangamner belongs

to respondents.

02. The husband filed his say stating that the house/bungalow belongs to the parents of the husband, who are respondent Nos.2 and 3 in Criminal Revision Applications. He also further objected the application saying that the wife is working as a teacher at Ganore, Tal. Akole, Dist. Ahmednagar and getting salary of Rs.42000/- per month. She is also getting house rent allowance. The application below Exh.16 came to be decided. The learned Judicial Magistrate, First Class allowed the application directing the respondents in the main application before the Trial Court to provide two rooms from the shared household i.e. bungalow, to the wife. He further directed to provide electricity and water to these two rooms. This order came to be challenged only by parents of the husband; whereas the husband and wife did not challenge the said order.

03. The learned Sessions Judge, Sangamner by his judgment and order was pleased to set aside the order passed by the learned Judicial Magistrate, First Class to the extent it was directed to provide two rooms in the shared household. The learned Sessions Judge further on its own directed

to pay amount of Rs.4000/- per month to the wife to secure suitable accommodation.

04. This order is challenged by the husband by filing Criminal Revision Application No.159 of 2022 on various grounds. It is mainly contended that when there was no challenge to the order passed by the learned Judicial Magistrate, First Class dated 25.02.2020 by the wife and when the wife had not raised any grievance stating that she requires amount towards house rent from the husband, the learned Sessions Judge on its own has directed the husband to pay an amount of Rs.4000/- per month towards rent. In the submission of the learned Advocate that the learned Sessions Judge, by modifying the order and by directing the husband to pay house rent amount, has exceeded its jurisdiction, especially when there is no prayer by the wife for payment of house rent amount. In her application below Exh.16 before the Trial Court, her only prayer was for residence order and nothing else. Under such circumstances, the learned Sessions Court could not have modified the order passed by the learned Judicial Magistrate, First Class.

05. The wife also filed Criminal Revision Application No.252 of 2022.

It is case of the wife that the amount of Rs.4000/- as awarded by the Sessions Judge towards the house rent is too short to get rental house suitable to her standard. Thus, her only ground of challenge is inadequacy of the rent amount.

06. Heard both the sides. The learned Advocate for respondent Nos. 2 to 5 i.e. the parents, brother and sister of the husband also appeared in the matter. He states that he has no grievance about the order impugned in both these revision applications, as his grievance was only against the order passed by the Trial Court to the extent of directing all the respondents in the main proceedings to give two rooms to the wife and that is redressed.

07. Heard all the parties to the applications. The submissions of the learned Advocate for the husband is correct to the extent that the learned Sessions Court has travelled beyond its jurisdiction by directing the husband to pay the amount towards rent. He submits that there is no prayer made in the application Exh.16 by the wife. His submissions are that even the order passed by the learned Trial Court is not challenged by the wife. In absence of any prayer from the wife, the Sessions Court could not have passed the order

directing the husband to pay the rent amount. He submits that his submission also requires consideration that the wife is in service and she is also getting salary including the house rent allowance and therefore she does not require any amount.

08. This Court is only on the limited aspect that the learned Sessions Judge has passed order and has granted relief, which is not prayed for at all. It is needless to say that it is open for the parties to take steps to get the matter expeditiously decided.

09. In view of this, the following order is passed :-

ORDER

- i) Criminal Revision Application No.159 of 2022 is allowed.
- ii) Criminal Revision Application No.252 of 2022 is rejected.
- iii) The parties are at liberty to make proper application in the main proceedings. In view of the facts and circumstances, the Trial Court is expected to decide the main proceedings i.e. Criminal Misc. Application No.555 of 2017 expeditiously.

iv) All the observations made above are for the purpose of deciding the present criminal revision applications and these observations may not come in the way of the Trial Court, while deciding Criminal Misc. Application No.555 of 2017.

[KISHORE C. SANT, J.]