

CRIMINAL REVISION APPLICATION NO. 125 OF 2022

Mohammed Ali Hasham Manekia

...Applicant

Versus

Saeeda Adam Kaladia & Anr.

...Respondents

Mr. Mohd. Ahmed a/w Mr. Sufian Qureshi for the Applicant

None for the Respondent No. 1

Ms. Anamika Malhotra, A.P.P for the Respondent No.2–State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 21st MARCH 2022

P.C. :

1 Heard learned counsel for the applicant.

2 By this revision application, the applicant has impugned the judgment and order dated 11th November 2021 passed by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater Mumbai, below Criminal Appeal No. 677/2018, by which the learned Sessions Judge

partly allowed the appeal filed by the respondent-wife and set-aside the judgment and order dated 11th September 2018 passed by the learned Metropolitan Magistrate, 69th Court, Mazgaon, Mumbai, in C.C. No. 825/MISC/2011 and directed the applicant to pay maintenance of Rs.7,000/- per month to the respondent-wife from 18th October 2011. In addition, the applicant was directed to pay the respondent-wife compensation of Rs.50,000/- deposited by the applicant, in compliance with the interim order passed by the learned Metropolitan Magistrate, after adjusting the same in the maintenance and rent amount.

3 Learned counsel for the applicant submits that earlier the learned Magistrate had directed the applicant to pay interim maintenance of Rs. 5,000/- per month. He states that the applicant was diligently paying the said amount of Rs. 5,000/- per month to the respondent-wife directly, pursuant to the said interim order passed by the learned Magistrate. He further submits that the respondent-wife's complaint seeking maintenance and other reliefs was rejected finally vide judgment and order dated 11th September 2018. He further submits that being aggrieved with the rejection of the said respondent's complaint under the Domestic Violence Act, the

respondent-wife filed an appeal in the Sessions Court and the learned Sessions Judge partly allowed the said appeal and directed the applicant to pay Rs. 7,000/- per month towards maintenance from 18th October 2011, Rs. 5,000/- per month towards rent for alternate accommodation.

4 Learned counsel for the applicant submits that the direction to pay maintenance from 2011 was unjustified and uncalled for as well as direction to pay rent of Rs. 5,000/- per month was also uncalled for. Learned counsel, on instructions of the applicant, submits that the applicant is aged 62 years and has retired from service. Learned counsel for the applicant, however, on instructions of the applicant, states that the applicant, without prejudice, will pay a sum of Rs. 7,000/- per month to the respondent-wife from the date of the impugned order i.e. 11th November 2021 until further orders. Statement accepted.

5 The question of rental compensation whether the same is to be paid from 2011 or from the date of the order i.e. 11th November 2021, will be considered on the next date.

6 As far as clause 5 of the impugned order dated 11th November 2021 is concerned, the applicant to transfer the said amount by NEFT/ RTGS directly into the account of the respondent-wife within four weeks from today.

7 Issue notice to the respondents, returnable on 25th April 2022. Learned A.P.P waives notice on behalf of the respondent No.2-State. In addition to Court notice, applicant to serve the respondent No.2 by Advocate's notice and file an affidavit of service before the returnable date.

8 Learned counsel for the applicant to supply spare copy in the Registry within one week from today, to enable the Registry to issue notice to the respondent No. 1. If spare copy is not supplied in the stipulated time, the application shall stand dismissed for non-prosecution, without further reference to the Court.

9 Accordingly, the applicant to pay maintenance of Rs. 7,000/- per month by NEFT/RTGS directly to the respondent-wife from 11th

November 2021, until further orders. The applicant to also pay Rs. 50,000/- to the respondent-wife directly.

10 The direction to pay Rs. 5,000/-, is stayed till the next date. The distress warrant, if issued, is stayed till the next date.

11 Stand over to 25th April 2022.

12 All concerned to act on the authenticated copy of this order

REVATI MOHITE DERE, J.