

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2208 OF 2021
IN
CRIMINAL APPLICATION NO. 2 OF 2020**

Gladys Dias ...Applicant
Versus
Mahesh Prakash Ahuja And Anr. ...Respondents

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Mr. Pandit Kasar, Advocate for the Applicant in Interim Application.

Mr. Raviraj S. Gamare Advocate for Respondent in Interim Application
and Applicant in Criminal Application.

Mr. M.G.Patil, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 28th SEPTEMBER, 2022.

PER COURT:

1. This is an application preferred by the original respondent No.2 in Criminal Application No.2 of 2020.

2. The original applicant has challenged the proceedings initiated under Section 12 of the Protection of Women from Domestic Violence Act (herein after referred to as 'DV Act'). The interim maintenance was granted to the applicant herein vide order dated 19.10.2019 to the tune of Rs.25,000/- per month. That order was challenged by the respondent herein before the Sessions Court by preferring appeal which is pending. Pursuant to order granting maintenance, the original applicant had preferred an

application under Section 25 of the DV Act before the trial Court, which has been rejected by order dated 03.07.2017. The said order as well as main proceedings were challenged before this Court. Criminal Application No.2 of 2020 preferred by the original applicant is challenging entire proceedings under the DV Act. Vide order dated 22.03.2021, Criminal Application No.2 of 2020 has been admitted by this Court and applicant therein was directed to deposit the arrears of maintenance till that date awarded by the trial Court vide order dated 19.10.2019 within a period of 4 weeks. The order passed by this Court directing the original applicant to deposit the maintenance amount was challenged before the Apex Court by preferring Special Leave Petition No.3402 of 2021. The said petition was dismissed vide order dated 10.02.2022 the applicant was permitted to make proper application before this Court seeking permission to withdraw the maintenance amount deposited by respondent herein. It was further directed that , such be decided by this Court expeditiously in accordance with law.

3. Learned Advocate for the applicant herein submits that the maintenance of amount in accordance with order dated 22.03.2019 has been deposited in this Court. Hence, the applicant may be permitted to withdraw the said amount.

4. Learned counsel for the respondent herein submitted that the

prayer for withdrawal may not be granted. The applicant herein had suppressed vital facts. The said facts are brought on record by filing affidavit-in-reply opposing this application.

5. It is pertinent to note that, the maintenance was granted by the learned Magistrate in 2019. The said order was challenged before the Sessions Court by preferring appeal which is still pending. Pending the said appeal, the respondent preferred Criminal Application No.2 of 2020 challenging the main proceedings which has been admitted. The order dated 22.03.2022 passed by this Court directing the respondent herein to deposit the maintenance was challenged before the Hon'ble Supreme Court and the petition has been dismissed.

6. In these circumstances, the applicant herein can be permitted to withdraw the amount of Rs. 5,25,000/- deposited in accordance with order dated 22.03.2022. Hence, I pass the following order :-

ORDER

- i. Interim Application No. 2208 of 2021 is allowed;
- ii. The applicant herein (respondent No.2 in Criminal Application No.2 of 2020) is permitted to withdraw the amount of Rs.5,25,000/-.
- iii. Interim Application is disposed off accordingly.

(PRAKASH D. NAIK, J.)