

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL REVISION APPLICATION (REVN) NO. 14 OF 2022

Sau Vidhi Gaurav Agrawal

.VS.

Dr. Gaurav Nandkishor Agrawal and ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Smt P. S. Kaware, Advocate for the applicant
Shri. P. R. Agrawal, advocate for non-applicant No.1

CORAM : G.A. SANAP, J.
DATE : DECEMBER 02, 2022.

By this revision application, the applicant has challenged the order dated 10.12.2021, passed by learned Additional Sessions Judge, Amravati, whereby the Criminal Appeal No. 172 of 2019 filed by the applicant came to be dismissed and the appeal filed by the non-applicants bearing No. 191 of 2020 came to be allowed. Both the appeals had been directed against the order dated 06.08.2019, passed by the Judicial Magistrate First Class, Amravati in Domestic Violence Application (PWDV) No. 212 of 2018, below application Exh. 5 made by the applicant for granting interim maintenance during the pendency of the proceedings, as per the provisions of the Protection of Women From Domestic Violence Act, 2005. This applicant was aggrieved by inadequacy of the ad-interim maintenance awarded at the rate of Rs.8,000/- per month. The non- applicants were aggrieved

by the order of grant of interim maintenance.

2. Learned ASJ decided and disposed of both the appeals by common order dated 10.12.2021. Learned ASJ was pleased to set aside the order of interim maintenance for the reasons recorded in the order and remanded the matter back to the learned Magistrate for deciding the same afresh, in accordance with law. It is seen on perusal of the order passed by the learned ASJ that the order was set aside on the ground that the learned Magistrate before granting the interim maintenance failed to record the findings on certain factual aspects, which in the opinion of the learned ASJ were condition precedent for granting the interim maintenance.

3. I have heard the learned Advocates for the parties. Perused the record and proceedings.

4. On hearing the arguments and going through the record I am of the view that the learned Magistrate would be required to decide the application at Exh.5 afresh in the light of the observations made by the learned ASJ in his order. The learned Advocate for the applicant submitted that the applicant has no source of income. She has resigned from the job in the month of October 2018. It appears on perusal of the record that no reference has been made to this fact either in the judgment and order of the learned Magistrate or in the

order of the learned ASJ. It is, therefore, apparent that keeping all these facts in mind the learned ASJ found that the parties should get an opportunity to place relevant material on record for adjudication of the limited issue, at interim stage. In the fact and circumstances, I do not see any reason to interfere with the order passed by the learned ASJ, remanding the matter back by restoring the application Exh. 5 for fresh hearing on merit. Therefore, I conclude that this revision application cannot be allowed.

5. It is to be noted that considering the facts stated in the revision application, this Court vide order dated 20.01.2022 directed the non-applicant No.1 to pay maintenance in the meantime @ of Rs.8,000/- per month as quantified by the Magistrate to the applicant. In my view, considering the nature of the dispute and the points required to be adjudicated upon, it would be just and proper and in the interest of justice to direct the non-applicant No.1 to continue to deposit the interim maintenance @ of Rs.8,000/- per month till the disposal of the application at Exh. 5, on merit.

6. In the peculiar facts, the learned Magistrate is directed to dispose of the application at Exh. 5, on the basis of available material, in accordance with law, without getting influenced in any manner by observations made either in this order or in the order passed by the learned ASJ. The

application Exh. 5 shall be disposed of within three months from today.

7. The parties would be at liberty to place on record the additional documents, if any.

8. The revision application stands **disposed of**, accordingly.

9. The authenticated copy of the order be provided to the advocate for the parties.

(G. A. SANAP, J.)

Namrata