

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

CRIMINAL APPLICATION NO.701 OF 2023

Salil Joshi Applicant
Versus
The State of Maharashtra
and another Respondents

Mr. Bhupesh Dhumatkar, Advocate i/b. Ankita Phadke a/w.
Rijul Khandare for the Applicant.
Mr Arfan Sait, APP for the Respondent No.1-State.
Ms. Nuzhat Shaikh, Advocate for the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 20th JULY, 2023

P.C. :

1. Heard Mr. Bhupesh Dhumatkar, learned counsel for the Applicant, Mr Arfan Sait, learned APP for the Respondent No.1-State and Ms. Nuzhat Shaikh, learned counsel for the Respondent No.2.

2. The Applicant has challenged the order dated 23.6.2023 passed by the learned Additional Sessions Judge at Dindoshi, Mumbai in Criminal Appeal No.167/2021 preferred by the Applicant before him. Apart from this main prayer, there are other prayers for interim relief made by the Applicant. The Applicant is the husband and the Respondent No.2 is the wife. The Respondent No.2 had filed the proceedings under the Protection of Women From Domestic Violence Act vide C.C. No.321/DV/2021 before the Metropolitan Magistrate, 10th Court, Andheri, Mumbai. By way of interim order dated 17.11.2021, learned Magistrate had directed the Respondent (Applicant herein) not to commit any domestic violence towards the complainant (Respondent No.2 herein) and the Applicant herein was directed to pay Rs.40,000/- per month to the wife and their two daughters since filing of the application till the conclusion of the trial. This order was separately challenged by both the parties before the Court of Sessions. The Applicant preferred the aforesaid Criminal Appeal

No.167/2021 and the Respondent No.2 filed Criminal Appeal No.176/2021 before the same Court. While both those Appeals were pending, the Applicant preferred an application for stay of operation of the impugned order passed by learned Magistrate. On that application, the order was passed by learned Additional Sessions Judge, Dindoshi on 23.6.2023, which is under challenge in this application.

3. From the submissions made by both learned counsel for the contesting parties, it appears that at this stage the bone of contention is about the arrears between the period of 15.10.2019 when the Application was filed by the Respondent No.1 before the Magistrate's Court and till 17.11.2021 when learned Magistrate passed the order granting interim maintenance. The arrears for that period comes roughly to Rs.10 Lakhs. Learned Additional Sessions Judge refused to grant stay on the order passed by the Magistrate because those arrears were not deposited. Both the Appeals are still pending before learned Additional

Sessions Judge. At this stage, it is not necessary to go deep into the merits of the matter because the issue is pending before the Sessions Court. Today, I am only considering as to what could be the interim arrangement till the Appeals are decided by the Sessions Court expeditiously.

4. Learned counsel for the Applicant putforth a suggestion that out of the amount of Rs.10 Lakhs, he can deposit Rs.5 Lakhs including the amount of Rs.99,000/-, which he has paid as fees for their daughters on 17.7.2023. Thus, he can deposit further amount directly with the Respondent No.2 to make up the amount of Rs.5 Lakhs including the school fees, till both the Appeals are decided by learned Additional Sessions Judge.

5. Learned counsel for the Applicant states that said amount shall be deposited in the Respondent No.2's account directly within a period of one week from today.

6. The submissions made by learned counsel for the Applicant appears to be quite reasonable.

7. To these submissions, the only apprehension expressed by learned counsel for the Respondent No.2 is that if the Applicant does not honor his commitment made before this Court, she should be given liberty to take steps in accordance with law.

8. In my opinion, at this stage, the submissions made by learned counsel for the Applicant can be accepted, subject, of course, to the apprehension expressed by learned counsel for the Respondent No.2. The present Application can be disposed of in the aforesaid premises.

9. Hence, the following order:

:: O R D E R ::

- i. The Applicant is permitted to deposit the amount of Rs.4,01,000/- in the account of the Respondent No.2 directly within a period of one week from today. This payment shall be subject to the final outcome of the Appeals preferred by both the parties before the Sessions Court.

- ii. The Additional Sessions Judge at Dindoshi, Mumbai shall decide both the Criminal Appeals, mentioned hereinabove, within a period of two months from today.
- iii. Both the parties shall cooperate in disposal of those two Appeals within that time frame.
- iv. Till both these Appeals are decided by the Sessions Court, the execution proceedings shall remain stayed.
- v. With these observations, present Criminal Application is disposed of.

PRADIPKUMAR
PRAKASHRAO
DESHMANE

Digitally signed by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date: 2023.07.24
16:15:57 +0530

Deshmane (PS)

(SARANG V. KOTWAL, J.)