

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 383 OF 2023

Sonam Swarup Godghate ... Applicant

V/s.

Swarup Babanrao Godghate & ... Respondents
Anr

Mr. Naman Jagri, for the Applicant.

Mr. Mohan Rawat with Ms. Sadhana Singh, for the Respondent No. 1.

CORAM : RAJESH S. PATIL,J.

DATE : 18TH DECEMBER, 2023.

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1. The present Criminal Revision Application filed by the petitioner-wife challenging the Judgment and Order dated 11th September 2023 passed by the Sessions Court, Mumbai in application filed by her to provide residence.
2. The Petitioner-wife has filed the DV complaint before the 57th Metropolitan Magistrate Court, Kurla, Mumbai. In the said DV complaint the Petitioner-wife filed an Interim Application to provide her residence. By its order dated 20th August 2020, the learned MM Court has directed the Respondent – husband to grant Rs.12,000/- p.m. to the Petitioner-wife. It was also directed that the said amount of

Rs.12,000/- will be directly deducted from the salary of Respondent-husband. However, learned Sessions Judge without giving any adequate reasons has modified the order passed by the 57th MM Court, Kurla, Mumbai and has reduced the amount granted for the purpose of residence of Rs. 12,000/- to Rs.3,000/-.

3. Admittedly, the Petitioner is also granted a sum of Rs. 2,000/- p.m from the Family Court at Nashik in Divorce Petition No. 518 of 2018. It is also further admitted that no amount has been paid to the Petitioner-wife by the Respondent – husband in the Family Court proceedings.

4. It is also admitted that gross salary of Respondent – husband is Rs. 67,112/- p.m. as of August 2020. Further the Advocate for the Respondent pointed out that there is a deduction of Rs.27,340/- from the said salary. Therefore, according to her net salary is only Rs. 39,772/- p.m.

5. It has been submitted by learned Advocate for the Petitioner that father of the Respondent – husband is retired person from Irrigation Department, Government of Maharashtra as Class-II Officer and father of the Respondent-husband is receiving pension from the State of Maharashtra.

6. I have perused the salary slip of the Respondent – husband as of August 2023. It appears that the net amount is calculated after deduction of Rs. 12,000/- as “Court Recovery”. Therefore, net salary of the Respondent – husband should around of Rs. 51,772/- p.m.

7. The Sessions Court has not taken into consideration while passing the impugned order what is total income of Respondent-husband. In such a case suffice would be the purpose if the impugned order dated 11th September 2023 passed by the Sessions Court in Criminal Appeal No. 279 of 2020, is quashed and set aside and the Sessions Court is directed to re-hear the Criminal Appeal No. 279 of 2020. Hence, I pass the following order:

ORDER

- I. The judgment and order dated 11th September 2023 passed in Criminal Appeal No. 279 of 2020 is hereby quashed and set aside.
- II. The Criminal Appeal No. 279 of 2020 be heard by the Sessions Judge and the Sessions Judge should make an endeavour to dispose of the Criminal Appeal No. 279 of 2020 within a period of four months from today. In the meantime, the directions given by the 57th MM Court, Kurla, Mumbai by its order dated 20th August 2020 should be complied by Respondent-husband and the employer of Respondent-husband as done after the passing of the order dated 20th August 2020.
- III. Parties are granted liberty to submit documents before the Sessions Court.

8. Copy of this order should also be served on the employer of

Respondent-husband so as to they can comply with the directions granted by this Court.

9. Criminal Revision Application accordingly disposed of.
10. All concerned to act on an authenticated copy of this order.

(RAJESH D. PATIL, J)