



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO.256/2023

Rajratan Pralhad Kanhekar .Vs. Sau. Apsara Rajratan Kanhekar and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. A. Pannase, Advocate (Appointed) for applicant.

CORAM : **ANIL L. PANSARE, J.**
DATE : **20.12.2023**

The challenge is to the order dated 10.08.2023 passed by Additional Sessions Judge, Bhandara dismissing the Criminal Appeal No.14/2023, filed by the applicant, thus upholding the order dated 14.07.2022 passed below Exh.-5 by Judicial Magistrate First Class, Bhandara, in Misc. Criminal Application No.4/2022. The learned Magistrate has directed the applicant to pay monthly maintenance at the rate of Rs.3500/- to the non applicants and also to vacate the house.

There is no dispute that the applicant and non applicant no.1 are husband and wife. It appears that the non applicant no.1 has filed application under Section 12 of the Protection of Women From Domestic Violence Act, 2005 (In short the, "DV Act"), seeking a couple of reliefs including the interim relief in the form of maintenance as also direction to the applicant/original non applicant to vacate the house.

Admittedly, the house property is in the name of non applicant-wife. It is her case that the applicant has driven the non applicants out of the house and he is

alone residing in the house. The applicant is working as Peon in SBI General Insurance Company. When inquired, learned counsel for the applicant submits that statement of assets and liabilities has been not placed on record. The non applicant no.1-wife claims that the applicant-husband is earning Rs.15,000/- per month. As against, the applicant-husband submits that he is earning Rs.4200/- per month. Both the parties could not place on record the documentary evidence in support.

The Courts below were, therefore, left with no other alternative but to guess the income of the applicant. He is working as Peon in SBI General Insurance Company. The Courts below assessed the income to be Rs.15,000/- per month. The Courts below have invoked the provisions under Section 106 and 114 of the Indian Evidence Act to arrive at such a conclusion, for the reason that the income of applicant was something which was within his exclusive knowledge, which he suppressed from the trial Court.

It appears that the application under Section 12 of the DV Act was filed by the wife and daughter. However, the applicant-husband, while preferring the appeal, has made wife as party-respondent and not the daughter, meaning thereby that the applicant has challenged the order of maintenance to the extent of wife only. The trial Court has directed the applicant to pay Rs.3500/- as monthly maintenance for both; wife and daughter. This amount is something that the person

like the applicant should minimum do for his wife and daughter.

Thus, what transpires is that by interim order, the learned trial Court has directed the applicant to pay Rs.3500/- per month to the wife and daughter. In addition, the trial Court has directed the applicant to vacate the house, which stands in the name of wife.

Considering the nature of allegations and further absence of document as regards income of applicant, which the applicant ought to have placed on record before the trial Court, I do not find any illegality or perversity committed by the Courts below in passing of the impugned orders.

I am, therefore, not inclined to interfere with the impugned orders in the revisional jurisdiction. The revision is, therefore, dismissed.

(Anil L. Pansare, J.)