



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIM. REVISION APPLICATION NO. 432 OF 2022

Aarti Ajit Ambre Alias Ujwala
Harischandra More.

...Applicant.

Versus

Ajit Vishwas Ambre and Another.

...Respondents.

Mr. Shreyash S. Butala for the applicant.

Mr. Manoj Mhambrey, Jenish Kansara, Sampada Channa for the respondent.

Coram : Sharmila U. Deshmukh, J.

Date : January 15, 2024.

P. C. :

1. Heard.
2. Challenge in the revision is to the order dated 14th September 2022 passed by learned Sessions Judge enhancing the interim maintenance from Rs.5,000/- to Rs.15,000/- per month.
3. Learned counsel for the applicant submits that respondent-husband is a construction contractor and it has been admitted in the reply as well as in the evidence that he is carrying on construction business. He would also submit that it is also admitted that in the year 2013, the respondent had constructed his own house at Chirni by

spending Rs.6 to 7 lakh. He submits that the financial capacity of respondent-husband can also be assessed by the fact that respondent by his political influence had enabled the applicant to contest the election to grampanchayat and to become Sarpanch. He would submit that the interim maintenance has to be commensurate with the needs of applicant as well as the income of husband.

4. Considered the submissions and perused the record.

5. The trial Court by its order granted a sum of Rs.5,000/- per month as interim maintenance to the applicant which came to be challenged by filing an appeal under section 29 of the Protection of Women from Domestic Violence Act. The Sessions Court has taken note of the fact that children are with the respondent-husband and at the interim stage, *prima facie* view of the matter is required to be taken from the material on record and held that *prima facie* the applicant has not been able to demonstrate the financial earnings of respondent-husband.

6. By the impugned order, learned Sessions Judge has enhanced the interim maintenance from Rs.5,000/- to Rs.15,000/- per month. Considering that the discretion has been exercised by the appellate Court and amount has been enhanced, no fault can be found in the

impugned order dated 14th September 2022.

7. The applicant is dissatisfied with the quantum of enhancement and seeks further enhancement.

8. The appellate Court has considered that if the applicant is allowed to reside in the shared household, it would be a matter of concern for the respondent-husband and children and, as such, has granted monthly maintenance @ Rs.15,000/- per month towards the food, clothing and residence from the date of application. The applicant has claimed Rs.50,000/- per month towards maintenance. However, it is well settled that at the interim stage it is on *prima facie* assessment of the material on record that the Court is required to grant the interim maintenance. The appellate Court has assessed the same at Rs.15,000/- per month and apart from showing the admission in cross examination of respondent that he is construction contractor and owns two dumpers, as regards the actual earnings of the respondent-husband nothing is brought on record. No doubt, the onus is upon the husband to produce the necessary material to demonstrate income earned by him which he will have to discharge at the time of leading evidence. However, at the interim stage based on *prima facie* assessment by the the appellate Court, the interim maintenance has been enhanced, which assessment cannot be faulted

with.

9. In view of the above, there is no merit in the revision and the same stands dismissed.

[Sharmila U. Deshmukh, J.]