



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 160 OF 2023

Asmita Makarand Mahajan and Anr. ... Applicants.
Versus
Makarand Sitaram Mahajan and Ors. ... Respondents.

Mr. Siddesh Pilankar, Advocate for the Applicants.
Mr. Lalasaheb Bandal i/by Mr. Sachin Mhaske, Advocate for
Respondent No.1.
Ms.M.R. Tidke, APP for Respondent-State.

CORAM : SHARMILA U. DESHMUKH, J.
DATE : JANUARY 11, 2024

P. C.:

1. Heard.
2. Criminal Revision Application has been preferred by the Revision Applicant who is the wife and daughter of Respondent No.1. The Respondent No.2 is the mother-in-law.
3. By the impugned order dated 23rd February, 2023, the Appeal preferred by the Respondent No.1 came to be partly allowed and the order of maintenance of Rs.6,000/- each to the Applicant No.1 and 2 respectively came to be reduced to Rs.5,000/- each to the Applicant No.1 and 2 respectively from the

date of Application.

4. Heard Mr. Pilankar, learned counsel for the Applicants, Mr. Bandel, learned counsel for the Respondent No.1 and Ms. Tidke, learned APP for Respondent No.3.

5. Mr. Pilankar, learned counsel for the Applicants submits that the trial Court by detailed order and after considering the income of the parties granted a sum of Rs.6,000/- towards the maintenance of the Applicants each. He further submits that the Applicant No.2 is a student and there is a considerable educational expenses apart from the day to day maintenance, which is required for Applicant No.2. He would submit that taking into consideration the requirement of the Applicants, the order was passed by the Metropolitan Magistrate. He submits that the order came to be reduced by a sum of Rs.1,000/- each by the Sessions Court, for the reason that during the pandemic, every one had suffered loss. He submits that apart from that solitary reason, no reason has been given by the Sessions Court for modifying the order of the trial Court.

6. *Per contra*, Mr. Bandel, learned counsel appearing for the

Respondent No.1 submits that the Application itself is not maintainable. He submits that the Sessions Court after taking into consideration the intervening event of pandemic has modified the order.

7. Considered the submissions and perused the records.

8. In an application filed under the domestic violence proceedings, Application was filed by the Applicants seeking maintenance of Rs.17,000/- p.m. and Rs.10,000/- p.m. towards rent. The trial Court taking into consideration the allegations in the Application regarding the domestic violence have held that *prima facie*, the Applicants have proved that the Respondents have committed domestic violence. Thereafter, the trial Court by a well reasoned order and after considering the relevant material on record has granted the Applicants each monthly maintenance of Rs.6,000/-. The Sessions Court without any finding as regards the income of the Respondent No.1 has merely for the reason that in pandemic everyone suffered loss, reduced the quantum by Rs.1,000/- each. The Sessions Court lost sight of the fact that even during the pandemic, the Applicants had to meet their day to day

expenses as well as educational expenses of the Applicant No.2. Further the Sessions Court should have been sensitive to the fact that despite pandemic the liability to maintain the wife and daughter could not be shirked by the Respondent No.1. The Sessions Court has by a very cryptic order, reduced the quantum of maintenance. It needs to be noted that the Applicants had claimed a sum of Rs.17,000/- as maintenance and had been granted a sum of Rs.12,000/-. There was no ground made out for reducing the maintenance granted by the trial Court.

9. Upon perusal of the order of the Sessions Court, which does not give any reasoning in support of its order for modifying the amount of maintenance, in my view, the same is clearly unsustainable. The Sessions Court has also lost sight of the fact that if there was any change in the circumstances, the Respondent could have moved the trial Court for seeking modification. This was not done. The Sessions Court by taking into consideration the subsequent event of pandemic and without considering that the pandemic was a temporary phase and not in perpetuity, has reduced the quantum of monthly maintenance which is

unsustainable. At the interim stage, on a *prima facie*, assessment the trial Court had passed a well reasoned order and the Sessions Court erred in interfering with the discretion exercised by the trial Court.

10. In that view of the matter, the Revision Application succeeds and the impugned order dated 23rd February, 2023 is quashed and set aside. Resultantly, the order of the trial Court dated 25th March, 2022 stands revived.

(Sharmila U. Deshmukh, J.)