

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.466 OF 2018

Subhash Vaman Mane and Ors.

....Applicants

Versus

The State of Maharashtra and Ors.

....Respondents

Mr. V. S. Tadake for the Applicants.

Ms. M. R. Tidke, APP for Respondent No.1.

CORAM : SHARMILA U. DESHMUKH, J.

DATED : 12th FEBRUARY, 2024.

P.C. :

1. Heard Mr. V. S. Tadake for the Applicants and Ms. M. R. Tidke, APP for Respondent No.1.

2. The challenge in the Application is to the order dated 26th June 2018 passed by the Appellate Court in Criminal Appeal No.126/2018 by which the Appellate Court has granted stay of the order dated 27/2/2018 passed below Exhibit-5 in C. C. No.262/DV/16 on the condition that the appellant No.1 shall pay Rs.4,000/- per month to respondent No.1 and Rs.3,000/- per month to respondent No.2 towards maintenance, till the decision of the appeal.

3. Mr. Tadake, learned counsel appearing for the applicants

would submit that the condition on which stay has been granted is onerous inasmuch as the applicant also has to maintain his daughter from earlier marriage as well as his aged father. He further points out that the salary slip which was produced before the Trial Court indicates that he is hardly getting income of Rs.10,000/-. He submits that the daughter from earlier marriage is studying in college and as such he has to meet her expenses.

4. By order dated 27th February 2018 the Trial Court has granted maintenance of Rs.6,000/- per month to the respondent No.1- wife and Rs.4,000/- per month to the daughter and by way of interim maintenance which came to be challenged by way of appeal before the Sessions Court. The appeal is yet to be adjudicated on merits and pending the hearing and final decision of the appeal, the execution of the order passed by the Trial Court is stayed on the above noted conditions. While exercising the power to stay the proceedings, the Appellate Court has considered the income of the appellant and also the fact that the applicant was receiving certain amount from the agricultural income which has not been shown. The Appellate Court has exercised the discretion and has directed the payment of Rs.3,000/- per month to respondent No.1 and Rs.3,000/- to respondent No.2. At this stage, when the appeal is yet to

be adjudicated on merits, I do not find any reason to interfere with the discretion which has been exercised by the Sessions Court while granting stay of the proceedings. It needs to be noted that the minor child is about 9 years and the educational expenses are required to be met. Similarly, the wife is unemployed and not having any source of employment although it is sought to be contended that she is doing some work of selling imitation jewelry, however it cannot be said to be a constant source of income.

5. In light of the above, I do not find any reason to interfere with the impugned order. Revision Application stands dismissed.

6. Needless to clarify that the observations made herein are only for the purpose of deciding the validity of the stay order granted by the Sessions Court. The appeal is required to be decided by the Sessions Court on its own merits and uninfluenced by the observations made hereinabove.

(SHARMILA U. DESHMUKH, J.)