



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. REVISION APPLICATION NO. 396 OF 2023

Chetan Yuvraj Chavan and Ors.

... Applicants.

Versus

Komal Chetan Chavan and Anr.

... Respondents.

WITH

CRI. REVISION APPLICATION NO. 397 OF 2023

Chetan Yuvraj Chavan and Ors.

... Applicants.

Versus

Komal Chetan Chavan and Anr.

... Respondents.

Mr. Ganesh Bhujbal for the Applicants-husband.

Mr. Vaibhav Kulkarni for the Respondent No.1-wife.

Ms. Geeta Mulekar, APP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : May 03, 2024.

P. C. :

1. By these two Revision Applications challenge is to the common judgment dated 25th August, 2023 passed by the Sessions Court, Thane in Criminal Appeal No.29 of 2021. The order of the Trial Court was challenged by both the husband and the wife before the Appellate Court and thus, there were two appeals. As both Revision Applications arise out of the common judgment dated 25th August, 2023 passed by the Appellate Court, the same is taken up for hearing together with the consent of the parties and disposed of by this common order. For the sake of convenience, the parties are referred

to by their status before the Trial Court.

2. The facts of the case are that DV Application No.411 of 2019 was preferred by the Applicant under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, "DV Act") seeking various reliefs under Sections 17, 18, 20 and 22 of the DV Act. It was pleaded in the application that the Applicant was gifted various articles at the time of marriage by her parents, her family relatives and friends and the articles mentioned at Serial Nos.3,4,5,6,9,11 and 17 are in the illegal custody of the Respondents. The application further pleads that there was quarrel between the Applicant and the Respondent No.1 and the Applicant faced verbal and emotional abuse. It was pleaded that the Applicant was treated like a domestic maid-servant and was made to do the household work. The application has set out the acts of domestic violence and it is contended that ultimately in July, 2019, the Applicant left the matrimonial house.

3. In these proceedings, an application came to be filed under Section 23 of the DV Act seeking ad-interim and other reliefs. The Trial Court by order dated 11th January, 2021, on consideration of the material on record came to a *prima facie* finding of commission of acts of domestic violence. The Trial Court noted the submissions that Respondent No.1 is a Manager in Reserve Bank of India (RBI) and earning salary of Rs.1,17,000/- p.m. and is having no other dependents, and that the Respondent No.1 is having several landed properties at Chalisgaon. The Trial Court further noted the submissions of Respondents that the Applicant is a Dentist and is

highly qualified and working and earning salary of Rs.50,000/- p.m. and therefore, she is not entitled for monetary relief.

4. The Trial Court noted the copy of reply filed in HMP No.209 of 2019 in which the Applicant had admitted that she was working on temporary basis in a Charitable Trust at Sion and had worked in the Medical College, Kuper Mumbai and her services have come to an end on 31st July, 2019 and that thereafter, had resigned from her job, which fact was admitted by Respondent.

5. Considering the material on record, the Trial Court by order dated 11th January, 2021 directed the Respondent No.1 to pay interim maintenance of Rs.15,000/-p.m. from the date of filing of the application and also passed residence order permitting the Applicant to reside in the shared household at RBI quarters or in the shared household at Chalisgaon or to make arrangement of same level of accommodation to reside.

6. As against this, the Applicant-wife as well as the Respondents filed Criminal Appeal No.29 of 2021. The Appellate Court directed the filing of the affidavit of disclosure of assets and liabilities in accordance with the mandate of the Apex Court in the case of ***Rajnish vs. Neha [(2021)2 SCC 324]***. Upon consideration of the affidavits, the Appellate Court noted that the Respondent No.1 was drawing a gross salary of around Rs.1,65,000/- and that the Applicant is BDS by profession and she can stand on her own legs. The Appellate Court dismissed the appeal filed by the husband and allowed the appeal filed by the wife and directed to pay Rs.15,000/- p.m. as maintenance from the date of the application and Rs.15,000/- p.m. as

rent.

7. Heard Mr. Bhujbal, learned counsel for the Applicant-husband, Mr. Kulkarni, learned counsel for the Respondent No.1-wife.

8. Mr. Bhujbal, learned counsel appearing for the Applicant-husband submits that the perusal of the application under Section 12 of the DV Act would demonstrate that no case of domestic violence is made out. He would further submit that the Respondent No.1 had left the house on her own volition and that documents such as the copies of letters sent to the father of the Applicant, the copy of the application filed by the Respondent-husband before the Mahila Dakshata Samiti for counseling etc. were placed on record to demonstrate the same. He submits that the Respondent no.1-wife is a well qualified person and she has completed her B.D.S. and is able to earn on her own. He further submits that she was working on the temporary basis in Balasaheb Takhare Trauma Care Hospital Jogeshwari (East) and earning Rs.50,000/- p.m. He submits that as such, no maintenance ought to have been granted. He would further submit that by order of the Trial Court, the Trial Court had permitted the Respondent No.1 to reside in the shared household at Chalisgaon to which he has no objection. He submits that the house where the parties were residing is RBI quarters and would not constitute 'shared household'.

9. *Per contra*, Mr. Kulkarni, learned counsel for the Respondent No.1-wife supports the impugned order. He submits that the Revision Applicant No.1 is working as Manager in RBI and in 2018-19 his salary was about Rs.1,52,000/- whereas, presently he is earning a salary of

about Rs.2,25,000/-. He submits that on the other hand, presently the Respondent No.1-wife has no source of income and as such the order has been rightly passed.

10. Considered the submissions and perused the records.

11. The Trial Court and the Appellate Court on consideration of the pleadings in the application came to a *prima facie* finding that case of the domestic violence has been made out. Once the Courts have arrived at a *prima facie* findings, the Applicant-wife becomes entitled to the reliefs sought under the DV Act. It is settled that under Section 23 of the DV Act, the Magistrate is empowered to pass orders under Sections 17, 18,19, 20 and 22 of the DV Act and the said power has been exercised by the Trial Court. The Trial Court has considered that the salary of the Respondent-husband who was a Manager in RBI is about Rs.1,17,000/- whereas the Applicant was working for sometime on a temporary basis and has thereafter, no source of income and as such, held that she was entitled to monetary relief and residence order.

12. Considering the comparative income of the parties, the Respondent-husband was directed to pay interim maintenance of Rs.15,000/- and residence orders were passed. As against this, the Appellate Court in the appellate proceedings have re-appreciated the material on record and has upheld the findings of the Trial Court. The only modification being that as regards the right of residence in the shared household the Appellate Court has granted a sum of Rs.15,000/- p.m. as rent. It is clear from the provisions of Section 19(f) of the DV Act that the Magistrate in the proceedings under the DV Act

is empowered to direct the Respondent to secure the same level of alternate accommodation as enjoyed by her in the shared household or to pay rent for the same if the circumstances so require. It is not disputed that the Respondent No.1 is working as Manager in RBI and even if it is taken that his salary in the year 2018-19 was Rs.1,52,000/- considering that the Applicant-wife is not having any source of income, the amount of Rs.15,000/- granted cannot be said to be excessive. As regards the rent which is required to be paid, the Magistrate had passed the residence order as regards the shared household which has come to be modified by the Appellate Court by granting rent of Rs.15,000/-. There is no material which has been produced on record to demonstrate that sum Rs.15,000/- granted as rent is excessive particularly considering that under the provisions of Section 19(f) of the DV Act, the Respondent-husband has to secure the same level of alternate accommodation as enjoyed by her in the shared household.

13. As the Trial Court and the Appellate Court has rightly appreciated the material on record and granted the interim maintenance as well as the rent for the alternate accommodation, there is no infirmity in the orders passed. The Revision Applications being devoid of merits stand dismissed.

[Sharmila U. Deshmukh, J.]