



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

REVISION APPLICATION NO.111 OF 2024

Sunil Anil Pawar

...Applicant

Versus

Shalini Sunil Pawar

...Respondent.

Adv. Vilas Bambarde & Swapnil Padekar for the Applicant.

Coram : Sharmila U. Deshmukh, J.

Date : April 1, 2024.

P. C. :

1. This Criminal Revision Application has been preferred against the order dated 16th August, 2023 dismissing the appeal and confirming the judgment and order passed by the JMFC Khalapur in Criminal Misc. Application No. 28 of 2013 dated 30th May, 2017.

2. The facts of the case are that the Respondent wife filed an application under section 12 of Protection of Women from Domestic Violence Act, 2005 (D. V. Act) claiming maintenance. The Respondent-wife has pleaded the instances of domestic violence in her Petition and deposed the same in her affidavit of evidence. She has pleaded that after marriage, she was residing with her husband and in-laws at Lonawala and was subject to verbal and emotional abuse and also assault at the hands of the husband and in laws. She has further

pleaded that after birth of the girl child, the husband and in-laws did not come to visit the Respondent. She has further pleaded that the incident of assault has been reported to the police station. It was pleaded that the Respondent husband is a Software Engineer drawing a salary of Rs. 60,000/-.

3. The application came to be resisted by the Respondent husband. The allegations of domestic violence were denied. The parties went to trial. The Trial Court on the basis of the evidence on record came to a finding that the Respondent was subjected to acts of domestic violence and granted maintenance of Rs. 1,500/- per month each to the Respondent wife and child and rent of Rs. 2,000/- per month. As against this, an Appeal came to be filed by Applicant husband being Criminal Appeal No. 316 of 2019. The Appellate Court after consideration of the evidence on record held that the acts of domestic violence have been proved and dismissed the Appeal.

4. Heard Mr. Bambarde, learned counsel for the Applicant.

5. Learned counsel for the Applicant would submit that the pleadings on record do not indicate any act of domestic violence. Pointing out to the findings of the Appellate Court he would submit that the only finding is that the acts which are stated by the Respondent wife in her Petition and affidavit of evidence are

sufficient to constitute the instances of domestic violence. According to him, these findings of the Appellate Court are not supported by the evidence on record and as such, no relief could have been granted under the provisions of D. V. Act, no case of domestic violence is made out.

6. Considered the submissions and perused the record.

7. Respondent wife in her affidavit of evidence deposed in detail about the instances of domestic violence. She has specifically deposed that she was subject to physical and verbal abuse at the hands of the Applicant husband and in-laws. She has further deposed that for the purpose of purchasing row house a monetary demand was made from her father and due to the said dispute she was assaulted by her in-laws. She further deposed that when she was pregnant, the Respondent and in-laws husband insisted on sex-determination of the child to which she refused and by reason of the said dispute, she was subjected to verbal as well as physical abuse. She has further deposed that on 9th October, 2012 the girl child was born and thereafter the Applicant husband has not taken her back to the matrimonial house. She has further deposed that after the birth of the child, the Applicant husband and her in-laws had come in her parents house and abused her and her parents. She further deposed that she has not working

and has no source of income. Despite the Applicant husband earning income of Rs. 60,000/- he has not made any provision for her maintenance.

8. In the cross-examination nothing has been demonstrated so as to shake the evidence of the Respondent. The Appellate Court on the basis of the evidence on record has held that the acts of domestic violence have been proved by the Applicant husband.

9. The judgment of the Appellate Court in particular paragraph no. 7 has considered the depositions in the affidavit and on the basis of the same has held in paragraph 9 that the acts which are stated in the Petition and affidavit are sufficient to constitute instances of domestic violence. The provisions of D. V. Act define the domestic violence under section 3 of the D. V. Act which is a very wide definition and takes within its fold not only physical abuse, verbal and emotional abuse but also economic abuse.

10. The economic abuse includes deprivation of any economic or financial resources to which the aggrieved person is entitled or which the aggrieved person requires out of necessity and is not limited to household necessities for the aggrieved person and her children. The evidence which has come on record more than sufficiently demonstrate not only a case of verbal and emotional abuse but also

an economic abuse as admitted position is that no provision has been made for the maintenance of the Respondent-wife and child. The Appellate Court has upheld the findings of the Trial court granting maintenance of Rs. 1,500/- each of the wife and child and rent of Rs. 2,000/-. Considering the income of the Applicant husband the amount is not excessive. However, the wife has not questioned the judgment for enhancement.

11. Apart from the fact that the evidence on record demonstrates a clear case of domestic violence the amount of maintenance which has been granted considering the income of the Applicant husband cannot be said to be so excessive that would warrant interference under section 397 of Cr.P.C. The Appellate Court on the basis of evidence which has come on record has confirmed the findings of the Trial Court. There is no illegality demonstrated in the order of the Appellate Court.

12. The Revision Application being devoid of merits stand dismissed.

[Sharmila U. Deshmukh, J.]

Harish

Signed by: Harish V. Chaudhari

Designation: PA To Honourable Judge

Date: 04/04/2024 11:15:48