

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CR. WRIT PETITION NO. 4519 OF 2024

Nisha Deepak Nikam

...Petitioner

Versus

Deepak Amber Nikam And Anr

...Respondents

Mr. M. J. Reena Rolland for the Petitioner.

Mr. Rajesh Devgharkar i/b. Vivaka Partners & Mr. Nikhil Dixit for the
Respondent No. 1

Mr. Mayur S. Sonawane, APP for the Respondent No. 2

CORAM : M. M. SATHAYE, J.

**DATED : 29 OCTOBER 2024
(Vacation Court)**

P.C.:

1. Heard learned Counsel for the parties.
2. The Petitioner is the wife and the Respondent No. 1 is the husband. It appears that the proceedings under the Protection of Women from Domestic Violence Act, 2005 are pending before the 68th Metropolitan Magistrate Court at Borivali, Mumbai.
3. Learned Counsel for the Petitioner invited this Court's attention to the Rozanama, showing that on 28/08/2024 a statement was recorded on behalf of the Petitioner/Wife, that till the decision in the Interim Application for stay filed by the present Respondent/Husband, the Petitioner will not press for distress warrant. There is an order of interim maintenance dated 04/09/2023 by which the Respondent/Husband is directed to pay an interim

maintenance of Rs.30,000/- per month and Rs.20,000/- per month towards rent amount, which is not stayed. Admittedly, the Respondent/Husband is in arrears as on date.

4. Learned Counsel for the Respondent/Husband contended that in view of the fact that the Petitioner has withdrawn the earlier Criminal WP(ST)/20893/2024 making similar prayers, on 21/10/2024, this Petition is not maintainable. I have perused the prayers of the present petition and earlier petition. Considering the order that this Court proposes to pass, the order dated 21/10/2024 would not be an impediment.

5. This Court is not going into the merits of the claim of the maintenance. The fact remains that because of the statement made on behalf of the Petitioner/Wife, she is not in a position to press for distress warrant for recovery of the amount against which the Appeal is filed by the Respondent. It appears that under order dated 03/09/2024, the Petitioner's request for taking up the matter on board is rejected. A grievance is made that though the interim maintenance order is in force, which is not stayed, because of the statement made on 28/08/2024, recovery cannot be processed.

6. In that view of the matter, without going into the merits of the rival contentions about entitlement of the maintenance etc., this petition is disposed off, by passing following order.

(a) The Petitioner-wife is relived of the statement made on 28/08/2024 and she is free to press the distress warrant for execution of the interim maintenance order.

(b) No costs.

7. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)