

V.A Tikam

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

CRIMINAL REVISION APPLICATION NO.600 OF 2024

Kaarthic Manickam

.. Applicant

Versus

Pavitra Srinivasan Karrthic Manickam

.. Respondents

-
- Mr. Prakash Naidu, Advocate for the Applicant.
 - Ms. D.S. Krishnaiyar, APP for the State.
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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 3, 2024.

P.C.:

1. Mentioned at the time of rising of the Court due to exigency.

2. Heard Mr.Naidu, learned Advocate for Applicant and Ms. Krishnaiyar, learned APP for State.

3. Learned Advocate informs that he has come all the way from Nagpur and, therefore, the Revision Application be taken up for hearing at his request due to certain peculiar facts. I have heard Mr. Naidu. Revision Applicant challenges order passed below Exhibit 37 in Criminal Misc. Application No. 1143 of 2023. Criminal Misc. Application has been filed by Applicant (wife) against the Opponent (husband) in the 5th Judicial Magistrate First Class Court at Panvel

under Section 23 of the D.V. Act, 2005. In that application, the Opponent (husband), who is Revision Applicant before me has filed an application dated 12 March, 2024 raising the issue of maintainability and jurisdiction. Before Mr. Naidu would make his submissions he would candidly inform the Court that parents of Respondent wife reside in Panvel and therefore considering their residence to be the temporary residence of the Respondent wife in India, the proceedings may have been filed by her before JMFC Panvel. According to Opponent, the maintainability of the Criminal Misc. Application filed by Applicant (wife) in the Court at Panvel is principally challenged on the ground of jurisdiction. He would submit that if provisions of Section 27 of the Protection of Woman Against Domestic Violence Act, 2005 are perused by the Court, in the facts of the present case maintainability of the Application in the JMFC Court at Panvel is clearly not maintainable. He would submit that Applicant (wife) has been residing in the United States of America since the year 2014 and also holds Canadian Citizenship simultaneously. He would inform the Court that Opponent (husband) is also a resident of USA. He would submit that under the three clauses of sub-section (1) of Section 27 of the D.V. Act, Applicant cannot make out any case whatsoever for maintainability and, therefore, the application dated 12 March, 2024 was filed by Opponent (husband). He would submit that the application has been decided by the impugned order dated 19

March, 2024 and it stands rejected. He would submit that even though the learned Trial Court has agreed with the factual submissions made by Revision Applicant which are in fact the admitted position, but while interpreting the words in clause (a) of sub-section (1) of Section 27 of D.V. Act, the learned Trial Court has proceeded on the basis to consider the Applicant (wife) to be an aggrieved person temporarily residing within the jurisdiction of Panvel Court. He would inform the Court that marriage between the parties took place in Coimbatore, Revision Applicant (husband) is a resident of Coimbatore, parties resided in India for four months post marriage and thereafter they went back to the United State of America.

4. What is crucial and significant is the Application under the provisions of Section 27 of D.V. Act in the present case. The facts are delineated by the Trial Court in paragraph Nos. 1 and 2 of the impugned order. On the basis of interpretation of sub-section (1) (a) of Section 27 and the fact that admittedly parties are not residing in the jurisdiction of Panvel Court and the alleged act of domestic violence having taken place on American soil and not in India, an arguable case is made out by Mr. Naidu for stay of the order dated 19 March 2024 and stay of any further proceedings in Criminal Misc. Application No. 1143 of 2023 until the present Application is heard by the Court. Hence I propose to hear the Respondent. Until then, the proceedings in Criminal Misc. Application No. 1143/2023 shall stand

stayed. Order dated 19 March, 2024 is also stayed.

5. Learned Advocate Mr. Naidu next draws my attention to a subsequent order dated 21.10.2024 which has been passed by the learned Trial Court in Application filed below Exhibit '7' and Exhibit '23' by the Applicant (wife). This order is placed before me in the form of a pursis Application in the present Criminal Revision Application. Mr. Naidu would submit that the Revision Applicant proposes to challenge the said order in Revision. The order which is the subject matter of the present Criminal Revision Application was passed in March, 2024 which was under challenge. That order was in respect of rejection of the Application questioning the jurisdiction of the JMFC Court at Panvel for hearing the principal Application. The present order dated 21.10.2024 is passed in further Application filed by the Respondent (wife) for seeking maintenance below Exhibit '7' and Exhibit '23'. Since I have come to the *prima facie* conclusion that an arguable case is made out by Mr. Naidu with reference to the issue of jurisdiction under Section 27 of the said Act, the order dated 21.10.2024 is therefore directed to be stayed by this Court until the present CRA is decided.

6. Since Mr. Naidu is not aware about the filing procedure of this Court, he is directed to file an appropriate Revision Application to challenge the order dated 21 October, 2024 as available to him in law.

He may file the same in Registry within a period of two weeks from today on obtaining instructions from the Revision Applicant. If filed, the copy of application be served on the Respondent in accordance with law. This Court will not be able to decide the pursis Application filed by Mr. Naidu on behalf of the Revision Applicant.

7. In view of the above, issue notice to the Respondent, made returnable on 21 January, 2025. Humdast permitted. Private notice permitted.

8. In addition to Court's notice, Advocate for Revision Applicant is directed to serve copy of the Application along with copy of this order on Respondent and inform her about the next date of hearing by any permissible mode of service and file an appropriate affidavit of service with tangible proof of service on or before the next date.

9. After receiving the notice, Respondent may file her affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Applicant. .

10. Stand over 21 January, 2025.

[MILIND N. JADHAV, J.]