

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4777 OF 2024

Deep Shubhash Bhalodiya

...Petitioner

Versus

Mansi Deep Bhalodiya & Anr.

...Respondents

Mr. Parag S. Mishra a/w Vivek A. Busa, for the Petitioner.

Mr. S. S. Ghag, APP, for the Respondent - State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 16 APRIL 2025

P.C.:

1. Heard Mr. Parag Mishra, learned Counsel appearing for the Petitioner.
2. By the present Writ Petition filed under Article 227 of the Constitution of India the challenge is to the legality and validity of the Order dated 21st November 2022 passed by the learned Metropolitan Magistrate, Borivali, Mumbai below Interim Maintenance Application dated 19th May 2021 in C. C. No.6800177/DV/2021 as well as to the Judgment and Order dated 2nd September 2024 passed by the learned Additional Sessions Judge, City Civil & Sessions Court, Borivali Division, Dindoshi in Criminal Appeal No.407 of 2022. By the impugned Order dated 21st November 2022 of the learned Metropolitan Magistrate,

maintenance of Rs.20,000/- per month including medical expenses has been granted to the Respondent No.1. In the said Application, Respondent No.1 has sought interim maintenance of Rs.50,000/- per month and an amount of Rs.20,000/- towards medical expenses and rent of Rs.50,000/- towards accommodation at Mumbai. The learned Appellate Court has dismissed the said Criminal Appeal by confirming the Order passed by the learned Metropolitan Magistrate.

3. It is an admitted position as recorded in the Order dated 2nd September 2024 of learned Additional Sessions Judge that Respondent No.1 is not working anywhere.

4. It is the main submission of Mr. Mishra, learned Counsel for the Petitioner that Respondent No.1 was before marriage earning Rs.8,500/- per month. It is his further submission that Respondent No.1 has left the matrimonial house on her own accord.

5. However, it is required to note observations of the learned Additional Sessions Judge in Paragraph No.10 of the impugned Order dated 2nd September 2024, which reads as under:

“10. The relation between the applicant and respondent No.1 is not in dispute. The applicant has levelled allegations of domestic violence and mental harassment at the hands of respondents. On going through the allegations levelled against Respondent No.1, he has extra marital affair with respondent No.4 Neely Shah which caused mental Trauma to the applicant. The applicant has been driven out from matrimonial home. Therefore, at this stage, there is prima-facie ground which indicates that the applicant was subjected to domestic violence at the hands of the respondents. Now,

she is staying at her parental house. Respondent No.1 has admitted that at present applicant is not working anywhere. Therefore, at this stage, it cannot be said that the applicant is not entitled for getting interim maintenance from respondent No.1 being the husband of the applicant and is liable to pay maintenance amount including medical expenses of the applicant.”

6. Thus, it is the contention of Respondent No.1 that the Petitioner is having an extra-marital affair and Respondent No.1 has been driven out from the matrimonial house.

7. Accordingly, in the facts and circumstances of this case, no interference under the jurisdiction of this Court under Article 227 of the Constitution of India is warranted. Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]