

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 857 OF 2014
[Arun Uttam Naik vs The State of Maharashtra and ors.]

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or
directions and
Registrar's orders

Court's or Judge's orders

Shri S.R.Sapkal, advocate for the petitioner
Shri V.P.Kadam, A.P.P. for respondent/State

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CORAM : V.M.DESHPANDE, J.

DATED : 4th March, 2015

PER COURT :-

- 1] Rule. Rule made returnable forthwith. Heard with the consent of the parties finally.
- 2] By the present petition, the petitioner has challenged the order, passed by the learned Judicial Magistrate, First Class, Kopergaon, below Exh.22 in Criminal Application No. 203 of 2013. By application (Exh.22), present respondent no.2 filed an application before the learned Magistrate that in spite of the fact that the petitioner is duty bound and liable to pay the amount of maintenance, the petitioner is not paying the same, and therefore, to

recover amount of Rs.67,000/-, arrest warrant be issued. The said application was found favour with the learned Magistrate and the learned Magistrate on 11.6.2014 passed the order and issued the arrest warrant for recovery of Rs.67,000/-.

3] This court, on 6.8.2014, while issuing notice to the respondents, directed the present petitioner to deposit Rs.40,000/- in this court and upon such deposit the stay was granted.

The present petitioner complied with the order passed by this court on 6.8.2014 and deposited an amount of Rs.40,000/- on 11.8.2014. Thereafter notices were issued and respondent no.2 put her appearance before this court.

4] On 2.2.2015, the learned counsel for the petitioner Shri S.R.Sapkal upon instructions from his clients made a statement that remaining amount of Rs.27,000/- will be deposited in this court within a period of three weeks. Said statement was accepted and the matter was kept on 23.2.2015.

On 18.2.2015, in pursuance to the said statement made by Shri Sapkal, learned counsel on 2.2.2015, the petitioner has deposited Rs.27,000/- in this court.

5] Shri K.B.Autade, learned counsel appearing

for respondent no.2 submitted that the respondent no.2 has already withdrawn Rs.40,000/- deposited by the petitioner in this court.

Since the order impugned was for recovery of Rs.67,000/- and since the petitioner has already deposited the entire amount, the purpose for which the application Exh.22 was moved by respondent no.2 is already served.

6] In that view of the matter, the order, dated 11.6.2014, passed below Exh.22 in Criminal Application No. 203 of 2013 by the Judicial Magistrate, First Class, Kopergaon is hereby quashed and set aside.

7] Shri Autade, learned counsel submitted that respondent no.2 be permitted to withdraw the remaining amount of Rs.27,000/-. Since the said amount is deposited by the petitioner towards maintenance, respondent no.2 is entitled to withdraw the amount of Rs.27,000/- deposited by the petitioner in this court.

8] With these observations, present Writ Petition is allowed. Rule is made absolute accordingly.

[V.M.DESHPANDE, J.]