

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

CRIMINAL WRIT PETITION NO. 1086 OF 2014

Mahendra Ashok Waghchaure,
age 34 years, occ. Driver,
R/o Tandulvadi Road,
Vadekar Colony, Near Pawar Vitbhatti,
Baramati, Dist. Pune

...Petitioner

VERSUS

Sneha Mahendra Waghchaure,
age 30 years, occ. Nil.,
R/o Bhavsahab Bandu Gite,
Konchi, T\$g. Sangamner,
Dist. Ahmednagar

...Respondent

.....
Shri A.K.Gawali, advocate for petitioner
Shri S.K.Shinde, advocate for respondent sole
.....

CORAM : V.M.DESHPANDE, J.

DATED : 21st January, 2015

ORAL JUDGMENT : -

1] Rule. Rule is made returnable forthwith. With the consent of the learned counsel for the parties heard finally.

2] The Judicial Magistrate, First Class, Sangamner, by order, dated 12.11.2013 passed below Exh.4 directed the petitioner to hand over the interim custody of his daughter Kumari Srushti to the present respondent Sneha, who is the wife of the petitioner. The said order was challenged by the petitioner/husband by filing the appeal before the Additional Sessions Judge, Sangamner in Criminal Appeal No. 26 of 2013. The said appeal was dismissed on 7.7.2014 by the learned appellate court. Hence, the challenge in the present Criminal Writ Petition is to the concurrent orders passed against the present petitioner by both the courts below.

3] After dismissal of the said appeal, the present Writ Petition is filed. On 26.9.2014, this court issued notice and passed the following order :-

“3. In the meantime, there shall be stay to the execution and operation of the impugned order in terms of prayer clause (B), which runs as under :-

“ Pending hearing and final disposal of the present Writ Petition, the Hon'ble High Court may be further pleased to stay the effect and implementation of the judgment and order dated 12.11.2013 passed below Exh.4 by the Judicial Magistrate, First Class, Sangamner in Criminal Misc. Application No. 125/2013 confirmed by the judgment and order dated 7.7.2014 passed by the Additional Sessions Judge, Sangamner in Criminal Appeal No. 26/2013.” ”

4] Upon hearing both the learned counsel, it is clear that the main proceedings i.e. proceedings filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 are still pending in the court of the Judicial Magistrate, First Class, Sangamner. Therefore, the interest of justice can be subserved by following order.

- (i) The Criminal Writ Petition is allowed.
- (ii) The learned Judicial Magistrate, First Class, Sangamner, on whose file Criminal Miscellaneous Application No. 125 of 2013, filed by present respondent Sneha, is pending, shall decide the said application within a period of two months from the date of receipt of this order.
- (iii) Both the parties shall cooperate the learned Magistrate for the decision within stipulated time and no party shall unnecessarily file any application for adjournment or any application just to prolong the litigation.
- (iv) During the pendency and till decision of Criminal Miscellaneous Application No. 125 of 2013, the interim stay granted by this court on 26.9.2014 shall remain in operation.
- (v) Both the parties agree that they will appear before the learned Magistrate on 2.2.2015.

(vi) Rule is made absolute accordingly.

[V.M.DESHPANDE, J.]

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