

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL No. 37 OF 2015

Satish Sudarshan Gajul. ..Appellant.

Versus

Nakshatra @ Rupali Satish Gajul. ..Respondent.

Mr. Samir Kumbhakoni for the Appellant.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **June 18, 2015.**

P. C. :

1. The Appellant – husband filed petition for divorce under section 13 of the Hindu Marriage Act, 1955 against the Respondent-wife, being HMP No.145 of 2008. In this petition, the Respondent-wife took out an application for interim maintenance. By the order dated 4th December 2010, the Court below allowed the said application and granted monthly interim maintenance to the Respondent-wife at the rate of Rs.700/- and at the rate of Rs.500/- to the minor daughter. This order was not complied with by the Appellant. Therefore, the Respondent-wife took out an application [Exhibit-74] under Order-39, Rule 11 of the Code of Civil Procedure, 1908 for dismissing the marriage petition. This application at Exhibit-74 is allowed by the Family Court on 7th July 2014, by passing following order :

"ORDER.

- 1. Application is allowed with cost Rs.500/-.*
- 2. the Respondent shall pay the cost to the Applicant.*
- 3. the payment of cost shall be condition precedent.*
- 4. The petition shall remain stayed till next date.*
- 5. If the opponent deposits the entire amount, the stay order shall stand vacated automatically.*
- 6. If he fails to deposit the amount till next date, the petition shall stand dismissed automatically on next date."*

2. Thereafter this divorce petition was placed before the Court below on 1st August 2014, on which date the application was made by the Appellant to allow him to deposit the amount of arrears in 10 to 12 installments. This application has been rejected by the Court below vide its order on 11th September 2014. Hence, the present appeal.

3. This appeal was placed before us on 11th June 2015. We specifically asked the learned Counsel appearing for the Appellant whether the Appellant is ready and willing to deposit the arrears of interim maintenance. Counsel for the Appellant sought time. Today Appellant is present in the Court. We pointed out to him that interim maintenance amount order was passed long back on 4th December 2010 and till date he has deposited only an amount of Rs.5,000/- towards the maintenance. He submitted that he is not able to deposit

arrears of maintenance in lumpsum and sought 10 to 12 installments for depositing the said amount. It is seen that as on 7th July 2014, the total arrears of maintenance were Rs.73,200/- and out of this amount, the Appellant has only deposited Rs.5,000/- on 1st August 2014 and thereafter by the impugned order dated 11th September 2014, appellant's application for grant of time is rejected and since then the Appellant has not shown any bonafides by depositing the amount of arrears of maintenance. The Appellant is lawyer by profession. The amount of maintenance which is awarded to the Respondent-wife and minor daughter is meager. We do not find any justification on the part of the Petitioner for non payment of maintenance amount and for allowing the arrears to mount. The appeal is without any merit. The Appellant having failed to show his bonafides, we are not inclined to entertain this appeal and the same is accordingly dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]