

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 216/2015

(Tushar s/o Vilas Mehre vs. Mrs. Pragati w/o Tushar Mehre and another)

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

Mrs. Jyoti Dharmadhikari, Adv. for petitioner
Mr. D.M. Kale, Advocate for respondents

CORAM: A.B. CHAUDHARI, J.

DATED : 30th November, 2015.

Heard learned counsel for the rival parties.
Perused the impugned order. The impugned order came to be passed after the earlier order that was made by the Family Court, was set aside by this Court, for fresh consideration. In the impugned order, the respondent no.1-wife has been denied maintenance in view of the certificate of her employment with some institution.

2. In the instant Writ Petition what is under challenge, is grant of maintenance at the rate of Rs. 10,000/- per month to the girl-child/(respondent No. 2), who is aged about 12-years, from the date of application i.e. 28.12.2012.

3. In support of the Writ Petition, learned counsel for the petitioner husband vehemently argued that since his wife/respondent no.1 earns around Rs. 30,000/- per month, there was no question of

granting the maintenance to the girl-child, who is in the custody of respondent no.1-wife, as per her choice. According to the learned counsel, if the girl child is given in the custody of petitioner-husband, she could be put in a School in the United States. Looking to his willingness to maintain and educate the child and the respondent no.1-wife having opted for keeping the daughter with her, she is not entitled to maintenance to the daughter. Nevertheless the petitioner-husband would like to pay Rs. 5000/- per month regularly for the girl-child and that is being sent to her.

4. *Per contra*, Mr. D.M. Kale, learned counsel for the respondents submits that the finding about the income of the petitioner is Rs.2,70,416/- per month and, therefore, proposed contribution of Rs. 5000/- per month, for their daughter, who is aged about 12-years is too low. He further submitted that the respondent no.1 has been unjustly denied the maintenance by the Family Court, for which separate challenge has been raised in the Writ petition No. 299/2015. He then submitted that the girl-child is studying in VI standard in Scholars' School, Nagpur and looking to the ever-rising cost of living and education the amount of Rs.10,000/- per month is on lower side and, therefore, submitted that the present Petition should not be entertained.

5. I have heard the rival parties. In view of the filing of the Writ Petition by the respondent no.1-wife being Writ Petition No.299/2015 challenging the very same impugned order, I do not say anything in this petition insofar as the claim for respondent no.1 for

maintenance is concerned.

6. The next question is about the award of maintenance @ Rs.10,000/- per month to the girl child. With the assistance of the learned counsel for the petitioner-husband I have perused the reply filed by the petitioner-husband, which would clearly show that he has not preferred to disclose his net income so also his expenditure while he is residing in United States of America. He should have been fair to disclose the income as well as expenditure in order to allow the Court to record a proper finding. That was not done by him despite the fact that this Court had remanded the matter to the trial Court for fresh consideration. The petitioner-husband is clearly guilty of *suppressio veri suppressio falsi*. Be that as it may, insofar as the maintenance to the girl-child is concerned, it cannot be forgotten that her age is about 12-years and is bound to have more needs for her living as well as good education. Now a days standard of education and the money spent thereon, has increased manifold. In the light of the *prima facie* finding recorded by the court below that the income of the petitioner-husband must be Rs.2,70,416/- per month, I do not find any substance in the contention that Rs.10,000/- per month would be a higher amount of award as interim maintenance, for the daughter. Hence the submission is rejected. Consequently, the Writ Petition stands dismissed summarily.

JUDGE

sahare