

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 540 OF 2014

(Hasinbhai Aminbhai Mithani Vs. Alphabano w/o Hasinbhai Mithani & another)

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

Court's or Judge's orders

Shri C. D. Thamke, Advocate for the applicant.
Shri S. C. Savdekar, Advocate for the non-applicants.

CORAM : S. B. SHUKRE, J.
DATED : 16 JANUARY, 2015

Learned Counsel for the applicant submits that now the earning of the applicant has been substantially reduced, which is change in circumstance, entitling the applicant to file an application under Section 127 of the Criminal Procedure Code for seeking modification of order dated 21/02/2014 and, therefore, he prays for grant of permission to withdraw the application with liberty to file application under Section 127 Cr.P.C. before the competent Court.

Learned Counsel for the non-applicants submits that said permission may be granted, but it should be made subject to payment of monthly maintenance as per order dated 21/02/2014.

Considering the submission of learned Counsel for the applicant and also the fact that cost of living has increased considerably in present times, some balance

would have to be struck between the needs of respondents and capacity of the applicant while granting permission as prayed for. According to me, interest of justice would be served by directing the applicant to pay monthly maintenance of Rs.2,000/- to respondent No.2 and Rs.1,000/- to respondent No.1 by way of an interim arrangement till the application under Section 127 Cr.P.C. is filed by the applicant.

Accordingly, permission to withdraw the application is granted with liberty to file fresh application under Section 127 Cr.P.C. before the competent Court subject to the condition that the applicant shall pay monthly maintenance of Rs.2,000/- and Rs.1,000/- to respondents No. 2 and 1 respectively from the date of the present order till filing of an application under Section 127 Cr.P.C. After filing the said application, learned Magistrate shall decide the matter, including the application, if any, filed for grant of interim maintenance, in accordance with law, without being influenced by the observations made by this Court.

Criminal Application is disposed of as withdrawn in the above terms.