

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.89 OF 2016

KARBHARI TRIMBAK SOLSE

PETITIONER

VERSUS

HIRABAI KARBHARI SOLSE AND ANOHTER

RESPONDENTS

Mr.Hemant Surve, Advocate for the petitioner.

Respondent No.1 served.

Mr.S.G.Karlekar, APP for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 10/06/2016

PER COURT :

1. Though respondent No.1 has been served with court notice, she has not chosen to enter an appearance either through an Advocate or in person.

2. I have heard Mr.Surve, learned Advocate for the petitioner and the learned APP on behalf of respondent No.2 / State.

3. A short issue has been raised by the petitioner. Cri.Misc.Appl. No.226/2015 has been filed by respondent No.1 before the learned Judicial Magistrate F.C. At Kopargaoan invoking section 125 of the Cr.P.C. for seeking maintenance. After the said application was lodged on 18/04/2015, the petitioner submitted his reply on 06/01/2016.

However, without hearing the parties on the application for maintenance, the learned Magistrate entertained an application dated 06/01/2016 and passed an order issuing arrest warrant for Rs.4,200/- against the petitioner by keeping the objections pending.

4. This Court stayed the impugned order dated 06/01/2016 by directing the petitioner to deposit an amount of Rs.4,000/- in this Court. Liberty to withdraw the amount was granted to respondent No.1. The said amount has been deposited.

5. Considering the fact that the application for maintenance is pending, ends of justice would be met by directing the learned Magistrate to decide the said application expeditiously on its merits. Since respondent No.1 has not appeared in the matter, I deem it proper to permit the petitioner to withdraw the amount of Rs.4,000/- deposited in this Court and to deposit Rs.4200/- before the learned Magistrate at Kopergaon in the pending Cri.Misc.Appl.No.226/2015 within 3 (three) weeks from today. Thereafter, the learned Magistrate shall adjudicate upon the application by following the due procedure prescribed in Law.

6. In the light of the above, this petition is allowed. The impugned order dated 06/01/2016 passed by the learned Magistrate is quashed and set aside on the condition that the petitioner shall deposit the

amount of Rs.4,200/- before the said Court within 3 (three) weeks from today, failing which the learned Court would be at liberty to pass further appropriate order. The amount deposited in this Court by the petitioner is permitted to be withdrawn without conditions by making an application accompanied by a copy of the election ID / Aadhar Card of the petitioner.

7. Needless to state, considering the dispute between the parties, both are at liberty to refer the matter to the Mediator for mediation.

(RAVINDRA V. GHUGE, J.)