

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

CRIMINAL APPLICATION NO. 5409 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.213 OF 2016

Mukarramali Khan s/o
Mohammadali Khan

...Applicant

VERSUS

Nishad w/o Mukarramali Khan
and others

...Respondent

.....
Shri G.R.Syed, advocate for applicant
Shri K.D.Munde, A.P.P. for respondent no.3

.....

CORAM : N.W.SAMBRE, J.

DATED : 19th October, 2016

PER COURT :-

Upon instructions a statement is made by the learned counsel for the applicant that the applicant shall deposit an amount of Rs.28,000/- in this Court within a period of four weeks from today.

2. If said amount is deposited, issue notice to the respondents for final disposal, returnable on 30.11.2016.

3. If the amount is not deposited, present application shall stand dismissed for following reasons.

(a) That the present applicant has suffered an order under Section 125 of the Code of Criminal Procedure in the present proceedings, whereby he is directed to pay monthly maintenance to his wife and also daughter to the tune of Rs.1,500/- and Rs.1,000/-, respectively.

(b) There is another order dated 1.4.2016 passed under the Protection of Women from Domestic Violence Act, 2005 (for short, 'the D.V.Act'), wherein the applicant was directed to pay maintenance of Rs.2,000/- towards house rent and Rs.5,000/- towards consolidated

amount of maintenance, plus compensation of Rs. One Lakh.

(c) Admittedly, the order passed under the D.V. Act is not complied with by the present applicant till date.

(d) Though the applicant has claimed that he is not employed anywhere and as such without recording the findings on income of the applicant the order cannot be sustained, however, it is required to be presumed that even if the applicant is working as labour, still his income per month could be taken into consideration for forming basis for ordering payment of maintenance.

(N.W.SAMBRE, J.)

dbm/crap5409.16