

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4286/2015 WITH 655/2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mrs. Anita M. Bafna for the petitioner in 4286/2015 and for the respondent in 655/2016.
Mr. Vivek Joshi for the petitioner in 655/2016 and for respondent in 4286/2015.

CORAM : K. K. TATED, J.

DATE : AUGUST 22, 2016

P.C.:

1. Heard. By petition No.4286/2015, the wife challenges the order dated 01.03.2013 by which the Family Court directed the respondent husband to pay sum of Rs.10,000/- pm by way of maintenance to the wife from the date of application i.e. 03.12.2011 till disposal of the petition and sum of Rs.5000/- p.m. to the minor child.

2. Writ Petition No.655/2014 filed by the husband challenging the same order i.e. 01.03.2013 by which the Family Court granted enhanced maintenance to the wife as well as the child.

3. Heard both sides at length. It is to be noted that, in the present proceedings the wife made an application for maintenance on 03.12.2011 on the ground that the husband is earning near about Rs.55 lacs p.a. He is a Pilot in Air India. Whereas, the wife has left her job from Air India to save their marriage. Thereafter in para 3 of the application, the wife has stated that she started working just a year back. The main contention of the wife is that when the husband is getting Rs.55 lacs p.a., she must get Rs.1,50,000/- for herself and Rs.50,000/- for her child by way of maintenance. Hence, she has filed the Writ Petition.

4. It is to be noted that, in an application for maintenance dated 03.12.2011, the wife has not given any particulars of expenses which she is required to incur for herself and her child. Apart from that, in para 3 of the application, the wife has specifically stated that she also started working. How much she is getting, nowhere it is stated in the application. Apart from that, the wife has not placed on record salary certificate.

5. On the other hand, the learned counsel for the husband submits that as the wife is also

working, the trial court erred in coming to the conclusion that the husband is liable to pay maintenance to the wife also. He submits that as per impugned order dated 01.03.2013 passed by the 6th Family Court, Mumbai at Bandra in M.A.No.361/2011, he is paying enhanced amount of compensation to wife as well as child. He submits that apart from Rs.5000/- to the child as per the impugned order, he has been bearing all the expenses of minor child i.e. school fees, traveling expenses etc. Across the bar, he has made a statement that till today, the entire maintenance charges are paid.

6. The learned counsel for the applicant submits that the husband has closed his evidence and wife is in witness box and she wants to examine seven witnesses on her behalf. He submits that the wife is avoiding to complete the matter as early as possible. He submits that in the interest of justice, this Hon'ble Court be pleased to direct the Family Court to decide the petition filed by wife and the petition filed by husband as early as possible. He submits that the husband is ready and willing to cooperate the Family Court to dispose of the matter as early as possible.

7. Considering the above mentioned facts that the wife is also working and she has not placed on record any documentary evidence to show how much amount she is spending for her child and herself and also that the evidence of husband is already over, I am of the opinion that the wife as well as husband has not made out any case in their writ petition to interfere with the well reasoned order dated 01.03.2013 passed by the Family Court. In the interest of justice, the Family Court is directed to hear both the applications as early as possible.

8. Hence, following order is passed:

- a. Writ Petition No.4286/2015 filed by the wife as well as the Writ Petition No.655/2014 filed by the husband stand dismissed.
- b. Hearing of Petition No.E-285/2011 (for maintenance) and Petition No.A-3067/2013 (For divorce) is expedited.

JUDGE