

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [APPP] No. 165 of 2016
IN
Criminal Application [APL] No. 229 of 2011
[Aftab Hayat Azad Vs. Ku. Ashna Parvin]
WITH
Criminal Application [APPP] No. 166 of 2016
IN
Criminal Application [APL] No. 778 of 2014
[Aftab Hayat Azad Vs. Najbunnissa divorcee Aftab Azad & another]

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

Court's or Judge's orders

Cri. Appln. No. 165/16 :

Ms. Sandhya Maniyar, Adv., for the Applicant.
Mr. S.Y. Deopujari, Adv., for respondent sole.

Cri. Appln. No. 166/16 :

Ms. Sandhya Maniyar, Adv., for the Applicant.
Mr. S.Y. Deopujari, Adv., for respondent no.1.
Mr. A.M. Deshpande, APP for respondent no.2.

CORAM : A.B. CHAUDHARI, J.

DATE : 25th February, 2016

Criminal Application No. 778 of 2014 has been
filed by the applicant, Aftab, against his wife, Smt.

Najbunnisa. Criminal Application No. 229 of 2011 is also filed by applicant, Aftab, against the minor girl, Ku. Ashna Parvin.

The contention of the applicant, husband, is that after the marriage, Ku. Ashna Parvin was born within five-and-half-month of the marriage. This Court made orders on 9th December, 2015 in both these applications. Criminal Application Nos. 165 and 166 both of 2016 are filed by the applicant, husband, for clarification of the said orders. Mr. Deopujari, learned counsel for the wife and the minor girl in both these applications, contends that the orders dated 9th December, 2015 in both the matters do not appear to have been correctly carried out, so is the contention raised by learned counsel for the applicant, Aftab.

Having given my conscious thought to the entire matter, I find, prima facie, the child having been born within a period of five-and-half-month after the marriage, which fact is seriously disputed by Mr. Deopujari, learned counsel for the wife, the wife would not be entitled to maintenance. However, in so far as the alleged illegitimate child, Ku. Ashna Parvin, is concerned, the law is trite that even an illegitimate child is entitled to maintenance. In that view of the matter, in supersession of earlier interim orders, I make the common order in both these applications, in order to avoid any further confusion:-

ORDER

- [a]** There shall be stay of the order granting maintenance to the wife, Smt. Najbunnisa, till the final hearing of Criminal Application No. 778 of 2014.
- [b]** Prayer for stay for payment of amount of maintenance to the child, Ku. Ashna Parvin, in Criminal Application No. 229 of 2011 stands rejected.
- [c]** Criminal Application Nos. 165 and 166 both of 2016 are, thus, disposed of.
- [d]** Since it is necessary to have final disposal expeditiously looking to the controversy involved, I think, these matters require expeditious hearing and hence parties are at liberty to mention before a regular Bench therefor.

Judge