

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

FAMILY COURT APPEAL NO.64 OF 2016

(Mr. Hardeep Singh Arora s/o Tejpal Singh Arora vs. Mrs. Gurleen w/o Hardeep Singh Arora)

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

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Shri Kartik Patel, Advocate for the appellant.

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CORAM : SMT. VASANTI A NAIK AND  
KUM. INDIRA JAIN, JJ.

DATED : OCTOBER 21, 2016

By this Family Court Appeal, the appellant – husband challenges an interlocutory order passed by the Principal Judge, Family Court, Nagpur, dated 16/8/2016 directing the appellant - husband to pay interim maintenance at the rate of Rs.20,000/- per month for July and August 2016 and litigation expenses of Rs.10,000/- to the respondent - wife.

The appellant – husband had filed proceedings against the respondent - wife for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955. It is the case of the appellant that during the pendency of the proceedings, the respondent lodged a complaint against the appellant for the offence punishable under Section 498-A of Indian Penal Code. According to the appellant, he was, therefore, not desirous of prosecuting the petition for restitution of conjugal rights and sought permission of the Family Court to withdraw the same. However, the Family Court directed the appellant to pay interim maintenance at the

rate of Rs.20,000/- per month for July and August 2016 and also litigation expenses of Rs.10,000/- to the respondent. The appellant has impugned the order of the Family Court, dated 16/8/2016 in this Family Court Appeal only in respect of direction to the appellant to pay a sum of Rs.50,000/- in all, to the respondent towards interim maintenance and litigation expenses.

Shri Kartik Patel, the learned Counsel for the appellant, states that the Family Court was not justified in directing the appellant to pay monthly maintenance at the rate of Rs.20,000/- to the respondent wife without considering that the appellant was merely working in the shop of his father and was not the owner of the same. It is submitted that the facts pleaded by the appellant are not considered by the Family Court while deciding the quantum of interim maintenance. It is stated that cogent reasons are not recorded by the Family Court while directing the appellant to pay interim maintenance at the rate of Rs.20,000/- per month for July and August 2016 and Rs.10,000/- towards litigation charges to the respondent. It is stated that the order in this regard should not have been passed, more so when the respondent - wife has filed proceedings against the appellant - husband under Section 498-A of Indian Penal Code.

We are not inclined to entertain the Family Court Appeal as the appellant is directed to pay interim maintenance only for two months, i.e. July and August 2016. The principle of *de minimis non curat lex* would apply to the facts of this Case. This Court would

not decide a Family Court Appeal, where a trifle amount is involved and the interlocutory order pertains to grant of interim maintenance only for two months. Hence, though we find that the Family Court ought to have considered the material on record and also recorded cogent reasons while directing the appellant to pay monthly maintenance of Rs.20,000/- to the respondent wife, we are not inclined to entertain the Family Court Appeal as the appellant was directed to pay interim maintenance only for two months.

Hence, without dealing with the correctness or otherwise of the impugned order passed by the Family Court in respect of the quantum of maintenance, we are inclined to dispose of the Family Court Appeal. The order of the Family Court will not come in the way of the appellant, if the respondent - wife files substantive proceedings for grant of maintenance or claims interim maintenance in the proceedings that may be filed either by her or the appellant in future.

With the aforesaid observations, we dispose of the Family Court Appeal with no order as to costs.

JUDGE

JUDGE

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