

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

CRIMINAL APPLICATION NO. 2923 OF 2017

MOTIRAM S/O. GANPATRAO MUNDE
VERSUS
MANDA W/O. MOTIRAM MUNDE

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Advocate for Applicant : Mr Solanke Shrikrashna B.
Advocate for Respondent : Miss Sunita Sonawane,
Dound S V.

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CORAM : V.K. JADHAV, J.
Dated: October 10, 2017

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PER COURT :-

1. Being aggrieved by the judgment and order passed by the Judicial Magistrate First Class, Ambajogai dated 27.6.2016 in Misc Criminal Application No.123/2013 directing the present applicant to pay Rs.2,000/- p.m. as a maintenance to respondent-wife from the date of order. The applicant-husband has preferred a Criminal Revision No.53/2016 and also filed an application Exh.4 for staying the effect and operation of the order passed by the Magistrate as aforesaid. The learned Additional Sessions Judge, Aurangabad by its impugned order dated 6.4.2017 has rejected the said stay application Exh.4. Hence, this criminal application.

aaa/-

2. The learned counsel for the applicant submits that, respondent-wife has already initiated the proceedings under the provisions of Protection of Women from Domestic Violence Act, 2005 bearing Misc Criminal Application No.241/2012 and the Judicial Magistrate First Class, Ambajogai, by order dated 9.6.2014 granted interim maintenance @ Rs.2,500/- p.m. and Rs.1,000/- p.m. for residence. Learned counsel submits that, the applicant-husband is regularly paying the amount. Learned counsel submits that, though, this fact was brought to the notice of the learned Judicial Magistrate First Class, Ambajogai in the maintenance proceedings initiated by respondent-wife under the provisions of section 125 of Cr.P.C., learned Magistrate has not considered the same and awarded the maintenance @ Rs.2,500/- p.m. Even, the learned Additional Sessions Judge, Ambajogai has not considered the same while rejecting the application exh.4. Learned counsel submits that, as directed by this Court, the applicant has deposited 50% of the arrears before the trial court and also paying Rs.1,000/-

p.m. Maintenance as directed by this Court.

3. Learned counsel for respondent-wife submits that, considering the sufficient means possessed by the present applicant-husband, trial court has granted maintenance @ Rs.2,000/- p.m. As per the salary certificate produced on record, the applicant-husband is getting salary of Rs.32,000/- p.m. Learned counsel submits that, Additional Sessions Judge, Ambajogai has rightly rejected the application exh.4. No interference is required.

4. Criminal Revision No.53/2016 is pending before the Additional Sessions Judge, Ambajogai. In response to the order passed by this Court the applicant-husband has deposited 50% of the arrears before the trial court. This court has also directed the applicant-husband to pay Rs.1,000/- p.m. In the light of the compliance of the aforesaid directions, this criminal application can be disposed of. Hence, following order.

aaa/-

O R D E R

1. Criminal Application is hereby allowed.
2. The order passed by the learned Additional Sessions Judge, Ambajogai dated 6.4.2017 below exh.4 is hereby quashed and set aside.
3. Application Exh.4 is hereby partly allowed on the condition that the applicant shall deposit 50% of the amount before the trial Court and shall continue to pay the maintenance to the respondent-wife @ Rs.1,000/- p.m. till the disposal of the Criminal Revision No.53/2016.
4. Meanwhile, the effect, execution and implementation of the order passed by the Magistrate in Misc.Criminal Application No.123/2013 is hereby stayed till the disposal of the Criminal Revision No.53/2016.
5. Criminal application accordingly disposed of.

sd/-

(V.K. JADHAV, J.)

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