

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.996 OF 2016

Salim Noor Mohd. Shaikh	..Applicant
Versus	
Fauziya Salim Shaikh and another	..Respondents

**ALONGWITH
CRIMINAL APPLICATION NO.1018 OF 2016
IN
CRIMINAL APPLICATION NO.996 OF 2016**

Fauziya Salim Shaikh	..Applicant
Versus	
Salim Noor Mohd. Shaikh and another	..Respondents

**Mrs. Seema S. Singh for the Applicant/original Respondent.
Ms. Ruby Shaikh i/by Mr. Imran M. Shaikh for the original Applicant.**

**CORAM : R. M. SAVANT, J.
DATE : 5th JANUARY, 2017**

PC.

1 The above Criminal Application has been filed by the Applicant/husband invoking the jurisdiction of this Court under Section 482 of the Criminal Procedure Code against the issuance of a non-bailable warrant issued by the Family Court vide order dated 31.05.2016. In the above application an order came to be passed on 05.10.2016 by a Learned Single Judge of this Court (Revati Mohite Dere, J), in which order, the statement made by the Learned Counsel for the Applicant on

(20)-APP-1018 & 996-16.doc.

instructions of the Applicant that the Applicant is ready to deposit the amount of Rs.89,000/- in the Registry of this Court was recorded and the said statement was accordingly accepted. In the said order, it is further directed that apart from the said amount of Rs.89,000/-, the Applicant shall deposit a further amount of Rs.10,000/- in the Registry of this Court towards cost of litigation/legal expenses likely to be incurred by the Respondent No.1 wife. Pursuant to the said order dated 05.10.2016, the Applicant has deposited an amount of Rs.99,000/- in this Court i.e. Rs.89,000/- towards the arrears upto April 2015 and Rs.10,000/- as cost of litigation/legal expenses. Since the non-bailable warrant was issued on account of the said arrears being not paid by the Applicant and since the arrears upto April 2015 have now been deposited by the Applicant in this Court, the order dated 31.05.2016 passed by the Family Court directing issuance of non-bailable warrant would have to be set aside and is accordingly set aside. The non-bailable warrant would accordingly stand cancelled.

2 The Respondent wife has filed Application No.1018 of 2016 for being permitted to withdraw the said amount of Rs.99,000/-. It is an undisputed position that the said amount has been deposited towards the amount due under the order passed under Section 125 of the Criminal Procedure Code by the Family Court. The Learned Counsel for the

(20)-APP-1018 & 996-16.doc.

Applicant i.e. original Respondent No.1 states that the Applicant does not press for implementation of the order dated 22.02.2012, in so far as the grant of interim maintenance is concerned, which statement the Learned Counsel for the Respondent wife states, has also been made before the Family Court. However, the Learned Counsel clarifies that the Respondent No.1 is pressing the said order in so far as it directs residential accommodation to be provided to the Respondent No.1. It seems that the Respondent No.1 wife is occupying the house of the Applicant in Mumbra, District Thane. In the light of the fact that the above Application No.996 of 2016 has been allowed in view of the compliance of the order passed under Section 125 of the Criminal Procedure Code in the matter of depositing the arrears of Rs.89,000/- plus Rs.10,000/- as litigation expenses, in my view, it would be just and proper to permit the Respondent No.1 wife to withdraw the said amount of Rs.99,000/- deposited in this Court. The Respondent No.1 wife would accordingly be entitled to withdraw the said amount of Rs.99,000/- deposited by the Petitioner in this Court on producing a copy of this order. Both the Application No.996 of 2016 and Application No.1018 of 2016 to accordingly stand disposed of.

[R.M.SAVANT, J]