

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.882/2015

Mohammed Arshad s/o Mohammad Amjad ..vs.. Shaheen Anjum d/o Syed
Yusus and another.

AND

CRIMINAL APPLICATION (APL) NO.883/2015

Mohammed Arshad s/o Mohammad Amjad ..vs.. Shaheen Anjum d/o Syed
Yusus and another.

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

Court's or Judge's orders.

Mr. S. A. Mohta, Advocate for applicant.
A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : JUNE 13, 2017

These two applications arise out of common judgment passed by the learned Sessions Judge, Akola dated 09.10.2015 in Criminal Revision Nos. 4/2015 and 19/2015.

Undisputedly, the non applicant no.1 who is wife, has moved an application along with her two minor children for maintenance before the learned Magistrate under Section 125 of the Cr. P. C. The said application was rejected by the learned Magistrate. Against the same, a revision came to be filed before the learned Sessions Judge. The revision was registered as Revision No.178/2009 and the learned Sessions Judge on 23.06.2010, allowed the said revision and directed the applicant to pay an amount of Rs. 2,000/- per month by way of maintenance. The said judgment was not challenged by the present applicant.

Subsequently, an application under Section 127 of the Cr.P.C. was moved by the wife and the said proceeding was registered as Criminal M. A. No.10/2014. It came to be allowed and the husband was directed to pay maintenance at the rate of Rs. 3,000/- per month to the wife.

The applicant who is a teacher is bent upon to see that the rightful claim of the wife is denied and hence he filed a revision for setting aside the order of the learned Magistrate. Since, the amount of maintenance was Rs.3,000/-, according to the wife it is insufficient and she also moved the revision. The revision filed by the wife was registered as Revision No.19/2015. A revision was also filed by the applicant-husband and it was registered as Revision No.19/2015. The learned Judge allowed the revision filed on behalf of the wife and maintenance was enhanced to Rs.5,000/- per month from Rs. 3,000/- per month and rejected the revision filed by the applicant.

I have heard Mr. S. A. Mohta, learned counsel for the applicant. He has invited my attention to the documents annexed with the application. The document at page 63 points out that out of salary of the present applicant, Rs.23,923/- are the deductions. He further submits that in the other proceeding under the Protection of Women from Domestic Violence Act, wife is already granted a lump sum amount of Rs.2,00,000/- by way of maintenance and therefore he submitted that the order passed by the learned revisional court needs to be set aside.

Page 63 shows that the applicant has taken a loan for repaying the said amount and he is deducting Rs.23,923/- per month. The learned counsel submitted that the applicant has again married. The learned counsel fairly submits that the total amount of Rs.2,00,000/- granted in the proceeding under the Protection of Women from Domestic Violence Act is not paid by the applicant. Further, the full amount of *Mehar* is also not paid to the wife. It is pertinent to note here that even though the court has granted maintenance to the non applicant-wife, she has to file execution proceeding and only after that the applicant started paying the maintenance.

The learned Sessions Judge has considered all these aspects. From the various orders which are annexed along with this application, it clear that the applicant is trying to avoid his responsibility of making payment of maintenance to his wife by making various applications. Such an attitude of the applicant needs to be deprecated.

In that view of the matter, no case is made out for interference in the present application. The same is therefore rejected.

JUDGE