

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

**CRIMINAL WRIT PETITION NO.162 OF 2018**

Ravindra Nitram Parihar ... Petitioner

Vs.

Shital Ravindra Parihar and ors. ... Respondents

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Mr.V.A.Shastry for the Petitioner.

Mr.A.V.Bhuskute for Respondent No.1.

Mr.Rajan Salvi for Respondent No.9-the State.

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**CORAM : SMT. BHARATI H.DANGRE, J.**

**DATE : MARCH 7, 2018.**

**P.C.:**

. The writ jurisdiction of this court is invoked by the Petitioner-husband being aggrieved by an order passed below Ex.86 by the 2<sup>nd</sup> Joint Judicial Magistrate, First Class, Khadki, Pune, on an application preferred by the Respondent-wife seeking to produce the appointment letter, salary slip showing salary and incentives etc. of husband and also seeking issuance of summons to the employer directing him to produce the said documents. The Judicial Magistrate passed an order on 8<sup>th</sup> January, 2018, allowing the said application and directing summons to be issued to the H.R. Head of Atos Globle IT Solutions and Services Private Limited situated at Vikroli,

Mumbai, where husband is presently working as a Senior Consultant. It is this order which harms the Petitioner and he approaches this court.

2. I have heard the learned counsel for the Petitioner and Respondent at length. The learned counsel for Petitioner invites my attention to an application-Ex.81, which was earlier moved by the wife, thereby seeking direction to the husband to produce certain details specifically his original appointment letter and the salary certificate in order to effectively adjudicate her claim for maintenance. The learned Magistrate on 10<sup>th</sup> December, 2017, passed an order permitting the Respondent to furnish the salary certificate. It is the case of the Petitioner that the pay-slip for the month of September, 2017 reflecting his earnings including his gross and taxable income alongwith the deductions has been produced before the court. Ex.86 is another application moved by the wife, thereby praying for issuance of summons to the H.R. Head of Atos Globle IT Solutions and Services Private Limited. It is on this application the impugned order has been passed. The learned counsel would urge that the salary certificate which has been produced reflects earnings of the Petitioner and is sufficient

to determine the claim.

3. The learned counsel for the Respondent-wife submits that the pay-slip has been produced by the Petitioner do not reflect the true figures as it reflects the gross income without mentioning bonus and other incentives, which are available for an employee of the said company and therefore, it is necessary to examine the H.R./ Head of the said company, who will be in a position to depose the true earnings of the employee/husband, so as to enable the court to arrive at appropriate amount of maintenance to be paid to the wife and daughter.

4. On perusal of the pay-slip that has been produced before this court and which is filed on the Record of the Learned Magistrate it is reflected that the earnings of the husband-employee of Atos Globle IT Solutions and Services Private Limited under the caption "Income tax worksheet for period April 2017 to March, 2018", which is reproduced, gives the details of the gross salary, the exemption and the taxable income from the period commencing from April, 2017 to March, 2018 with the proposed investments and also reflects the deductions under Chapter VI-A of the Income Tax Act. Apart from the said figures, the tax is also

calculated which reflects taxable income from previous employer and other details of professional tax and net tax. At the bottom of the said pay-slip, there is an endorsement of personal note which reads thus: "This is a system generated pay-slip does not require any certificate." The said slip also reveals that the Petitioner has joined the said company on 12<sup>th</sup> May, 2016.

5. On perusal of the pay-slip, it is clear that the earnings of the husband are clearly reflected in the said pay-slip. The learned counsel for the Respondent-wife would urge that he has also sought an appointment order to be placed on record and he has a reason to demand it, being that husband was earlier working in Hexaware Technologies Limited and his pay-slip for the month of April, 2016 has already been placed on record and same has been exhibited. According to the learned counsel, the total earnings that are reflected as per the pay-slip is Rs.1,40,583/- with net pay of Rs.1,26,611/-. The pay-slip is of the month of April, 2016 and it appears that husband has shifted to another company-Atos Globle IT Solutions and Services Private Limited in May, 2016, of which the salary slip has been produced. The learned counsel express his apprehension that a person who was

earning an amount would take up a joke with the company. His apprehension may be justified, but there might be reasons why the Petitioner may have shifted from the said company and has been ready and willing to take up job with lower salary and of course this is a choice and discretion which the Petitioner is expected to exercise wisely.

However, in order to see that no injustice is caused to the Respondent-wife in regard to the claim of maintenance and compensation for her daughter as well as for herself, in the interest of justice, it would be appropriate for the Petitioner to produce on record the order of appointment of the Petitioner of Atos Globle IT Solutions and Services Private Limited. The learned counsel for the Petitioner readily agrees to that and undertakes that the said copy of the appointment order should be placed on the record of the learned Magistrate and be attached in the proceedings on the next date, which it is informed is scheduled tomorrow. The copy of the appointment order to be produced should be authenticated and bear the seal and signature of the employer. On the said document being produced, the learned Magistrate is directed to finalize the matter within period of one

month. With above observations, Writ Petition is disposed off.

**(SMT. BHARATI H. DANGRE,J.)**

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