

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

CRIMINAL APPLICATION NO. 820 OF 2018

WITH

CRIMINAL APPLICATION NO. 233 OF 2018

Govind Laxmichand Chauhan ... Applicant

Vs.

The State of Maharashtra & Ors. ... Respondents

...

Ms. Ratna R. Jaiswal for the applicant.

Mr. Mandar Limaye for the Respondent No.2

Mr. Y.M. Nakhwa, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 31st JULY, 2018.

P.C.

1. The applicant had preferred Criminal Appeal No. 576 of 2017 before the Sessions Court challenging the order dated 3rd August, 2017 passed by the learned Additional Chief Metropolitan Magistrate, 11th Court, Kurla, Mumbai in Case No. 203/DV/2016. The learned Additional Sessions Judge by order dated 30th January, 2018 passed interim order granting stay to the impugned order passed by the trial Court till the disposal of appeal, on condition that the applicant shall deposit 50% arrears of maintenance till filing of appeal within 30 days from the date of the order. It was further directed that the applicant shall continue

to pay an amount of Rs.3000/- per month to the respondent No.2 and Rs.1500/- each to two children towards maintenance from the date of filing of appeal.

2. On account of financial constraint, the applicant could not comply with the said directions. Therefore, Miscellaneous Application was filed by the applicant before the Appellate Court for extension of time. The appellate Court had granted extension of one week. Therefore, the applicant has moved this application before this Court.

3. It is submitted by the learned advocate for the applicant that the total arrears qua the impugned order passed by the trial Court towards the maintenance comes to Rs.2,24,000/- and the 50% of the said amount would be Rs.1,12,000/-. The applicant has so far deposited an amount of Rs.30,000/- before the Sessions Court. Therefore, the balance amount is Rs.96,000/-. It is submitted that due to poor financial condition the applicant was not in a position to comply with the said directions within stipulated time, therefore time may be granted to deposit the said amount. On instructions, it is submitted that the applicant would deposit 50% of Rs.96,000/- within a period of one week from today and remaining amount shall be deposited within a period of four weeks

from today. It is further submitted on instructions towards that regular arrears referred to in order dated 30th January, 2018 which is approximately Rs.42,154/-, the applicant would deposit 50% of the said amount within one week and remaining amount within four weeks. The statement made by the applicant is accepted as undertaking to this Court. Learned counsel for the respondent submits that sufficient opportunity was given to the applicant to deposit the amount and inspite of that applicant had not complied with the aforesaid directions. However taking into consideration that the applicant is willing to deposit the amount as stated herein above, the permission to deposit the amount can be granted. Hence, I pass the following order.

ORDER

- (i) Criminal Applications are allowed;
- (ii) Applicant is permitted to deposit 50% of Rs.96,000/- within one week and remaining about within four week from today before the Sessions Court;
- (iii) The applicant shall deposit 50% of Rs.42,154 within one week before Sessions Court and remaining amount within four weeks from today;

- (iv) The applicant shall continue to pay regular maintenance in accordance with interim order dated 30th January, 2018;
- (v) Interim relief shall be continued subject to the compliance of the statement as aforesaid made by the applicant. No further extension shall be granted;
- (vi) Respondent No.2 is permitted to withdraw the amount deposited by the applicant before the Sessions Court;
- (vii) Criminal Applications stand disposed off.

Sachidanand
Kuttan Nair

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by Sachidanand
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(PRAKASH D. NAIK, J.)