

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION ST.NO.25257 OF 2017

Anjusha Satishchandra Kale .. Petitioner
Versus
Satishchandra Purushottam Kale .. Respondent

Petitioner in person
Mrs. Manjula Rao i/b. H.P.Vyas for respondent.

CORAM : MRS. BHARATI H. DANGRE, J.

DATE : 3rd April 2018.

P.C.

1] The petitioner who appeared in person before this Court on last date, was directed to approach the concerned Committee constituted by this Court seeking permission to appear in person and the matter came to be adjourned for the said purpose. The Registrar (Judicial-I) has placed the report on record indicating that the contempt petitioner is not in a position to assist the court. The contempt petitioner today appeared in person before this Court. She however requested this Court to permit her to appear in person since the issue involved is a family issue and she is well conversant with the facts of the case and she is aware of the entire statistics involved in the matter relating to the amount of maintenance and,

the orders of the Courts passed from time to time. Therefore, in the interest of justice this court permitted the petitioner to appear in person and that is how the matter was heard.

2] By the present contempt petition, the petitioner alleges disobedience of the order of this Court passed on 21st October 2016. The petition filed by the petitioner husband came to be withdrawn in view of the inclination shown by this Court to expedite the proceedings before the trial court. This Court, therefore, in paragraph 5 of the order permitted withdrawal of the petition subject to the conditions stipulated in the order, which inter alia, included deposit of an amount of Rs.5 lakhs in the trial court within three weeks from the date of the order and the balance sum of Rs.5,69,000/- within four weeks therefrom. Another stipulation was contained in para 5 was in form of a direction to the petitioner to deposit an amount of Rs.1,25,000/- per month in the first week of every month commencing from November 2016. Respondent wife was permitted to withdraw the said amount when deposited by petitioner every month.

Clause 3 of the order is the bone of contention between the parties. It is the contention of the petitioner that the respondent

husband has not paid the said amount regularly. According to the petitioner, an amount of Rs.70,75,000/- is due and payable towards maintenance in terms of the order passed by the court below and it is being calculated from November 2012 till January 2018. A specific grievance of the petitioner is that she has received an amount of Rs.61,64,000/- plus an amount of Rs.4 lakhs towards maintenance and according to her an amount of Rs.16,81,000/- remains unpaid towards maintenance for 13 months. It is with this grievance and alleging disobedience of clause 3 of this Court's order the contempt petitioner has approached this Court.

3] In contrast to the submissions advanced by the contempt petitioner, Mrs. Rao learned Counsel for contemnor – husband submits that there is no disobedience of the order passed by this Court and she tenders a detailed chart showing the payments made by respondent husband. Learned Counsel would invite attention of this Court to an order passed on 5th December 2017, on an application filed by the wife for issuance of non bailable warrant/ recovery warrant against the respondent – contemnor for payment of Rs.16 lakhs towards maintenance. Mrs. Rao would also invite my attention to the order where the court has

categorically observed that various payments have been made through various modes and in various forms. The arithmetical calculation of arrears has, therefore, become difficult to arrive at a clear figure. The Magistrate after taking into consideration the said fact, did not deem it fit to issue non bailable warrant against the respondent in the back drop of the fact that the matter was directed to be expedited and it fixed a time schedule within which the matter was to be disposed of. However, by an order dated 5th December 2017, the learned Magistrate directed the respondent to pay the remaining arrears to avoid coercive orders. According to Mrs. Rao, the said amount has been paid and she invites my attention to the chart which is placed on record at Exh.F.

The said chart gives details of the payments that have been made and the amount of maintenance, which is either deposited in trial court or this court totalling to about Rs.68 lakhs. This chart also reflects the payment made towards children school fees and other ancillary expenses incurred by the respondent husband to the tune of Rs.3,59,350/-, which have been directly paid by cheques. Another chart reflects the maintenance paid for matrimonial home and details of the cheque numbers and other details have been given. This payment comes to about Rs.4,88,160/-. Another chart

reflects an amount paid to the petitioner from November 2012 totalling to Rs.1,02,500/-.

Learned Counsel for the respondent submitted that the Magistrate had directed a payment of an amount of Rs.1,25,000/- which include the educational expenses as well as ancillary expenses so also electricity bills etc. which are required to be paid by the wife for the facilities availed. According to the learned Counsel for the husband, the said payments have been directly made, since the petitioner wife has been defaulting the payment and, therefore, the said payments which have been made directly have been taken into consideration and are required to be subtracted from the actual payment awarded of Rs.1,25,000/-.

4] On examination of the documents on record and calculations tendered by the parties this Court is of the specific opinion that the amount of Rs.1,25,000/- per month was granted towards maintenance of the wife to maintain herself and her children and that from and out of the said amount the wife is required to take care of children and the day to day expenses so also educational expenses. It appears that certain amounts have been cleared by the respondent husband directly. However, the veracity of the

payments made by the respondent directly and as to what is the amount and its calculation is not the matter which this Court would look into at this stage. There are rival claims on record as regards calculations. While deciding the matter the Magistrate would take into consideration the rival claims and deal with the specific contentions of both sides.

5] Another issue to which the attention of this Court is invited is a direction issued by this Court for expeditious hearing and disposal of these proceedings pending before the Courts below. This Court by an order dated 21st October 2016, had issued a direction that the proceedings before the trial court are expedited and the trial court was further directed to conclude the case as early as possible and in any event within six months from the date of the order. It appears that thereafter no application for extension of time to decide the matter was moved and the proceedings are in progress. The contempt petitioner submits that the cross examination of the husband – original petitioner is over and the respondent wife is in witness box. The husband is required to be crossed by petitioner wife and according to her it would consume considerable time. However, it is made clear that this Court has expedited the

proceedings and had issued a direction that the proceedings should be concluded by June 2017. However, a period of almost ten months has lapsed but the proceedings are yet not concluded. It is made clear to the parties that the proceedings cannot be prolonged just for the sake of it and by consuming considerable time and as the petitioner – wife has made a statement that she was subjected to more than 20 sessions for cross examination. However, this litigation shall not be treated as a fancy litigation and precious judicial time cannot be exhausted in such a way. Though the aim of the court, undisputedly is to render justice to parties, the parties shall also keep in mind that the proceedings are to be concluded within a reasonable period and the judicial time of the court is not wasted for their whims and fancies and a medium to settle the scores.

6] In these circumstances, the Metropolitan Magistrate is directed to conclude the proceedings by conducting the same on day to day basis, if it is possible and permissible, considering the workload but in any contingency shall conclude the same by 30th June 2018. It is made clear that the petitioner so also the respondent shall cooperate with the proceedings. Both the parties

specifically undertake that both of them would remain present when the matter is scheduled and it is also made clear to the respondent husband that he shall make himself available for cross examination as and when the date is fixed by the Magistrate.

Before disposing of these proceedings, the learned Magistrate should be mindful of the observations made by this Court and would deal with the calculations by affording liberty to both sides.

7] The petitioner wife makes a categorical statement that the respondent has not cleared the amount of maintenance from January 2018. The learned Counsel for respondent husband on instructions from the husband who is present in court makes a categorical statement that the said amount @ Rs.1,25,000/- would be deposited in terms of the directions in the court below within ten days from today.

8] Contempt petition is disposed of.

(MRS.BHARATI H. DANGRE, J.)