IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4634 OF 2014

Master Prajwal Arvind Mane ...Petitioner
vs.
Arvind Ratnakar Mane ...Respondent

Mr. J.D. Khairnar a/w. Mr. Gaurang Jhaveri, for the Petitioner
Mr. Sadanand Mane, for the Respondent
Mr. Arvind Ratnakar Mane, the Respondent is present.

CORAM : M. S. SONAK, J.

DATE : DECEMBER 21, 2018

P.C.:

. Heard Mr. J.D. Khairnar, learned counsel for the Petitioner and Mr. Sadanand Mane, learned counsel for the Respondent.

2. In terms of the direction made by this Court on 12th December, 2018 Mr. Arvind Mane, the Respondent is present in this Court. He states that he has paid to the Petitioner Prajwal the maintenance as ordered by this Court by its order dated 28th September, 2017 amounting to Rs. 35,000/-.

3. The challenge in this Petition is to the order dated 1st March, 2014 made by the Principal Judge, Family Court, Solapur

dismissing the Petitioner's application seeking a warrant of attachment of the Respondent's salary for non payment of arrears of maintenance.

4. In this case, the Respondent was directed to pay to the Petitioner the maintenance @ Rs. 1,200/- p.m. Since, there were arrears the Petitioner applied for an order of attachment of Respondent's salary by way of execution. By the impugned order, the Family Court has taken the view that the arrears up to only 11 months can be enforced by way of execution. It refers previous order dated 4th July, 2011 made in that regard.

5. According to me, the view taken by the Family Court, is too technical and in any case not sustainable in law. This is a case, where the Petitioner was awarded a meager maintenance of Rs. 1,200/- p.m. from his father. Merely, because the Respondent-father avoided to pay the maintenance for unreasonable length of time, the application made by the Petitioner did not deserve such summary rejection. It is possible that Petitioner did not even have the financial means to approach the Court by way of execution earlier. In matters of this nature, at least equal importance is to

be given to the concept of law as well as justice. In the impugned order, the justice, has been made a casualty. Therefore, the impugned order deserves to be set aside and is set aside.

6. Consequent upon setting aside the impugned order, the prayer of the Petitioner that the salary of the Respondent be attached should normally have been accepted. However, Mr. Arvind Mane, the Respondent is present in the Court and he states that whatever are the arrears of maintenance, the same will be cleared within 15 days from today. This said statement is accepted as an undertaking to this Court.

7. The learned counsel for the Petitioner now states that the arrears of maintenance till date would come to approximately Rs. 1,17,000/- however, after giving credit to Rs. 35,000/- which the Respondent has paid, this figure comes to approximately Rs. 82,000/-. On the suggestion of this Court, the Respondent is ready to pay to the Petitioner, an amount of Rs. 1 lakh. The Respondent very gracefully agreed to the same. Accordingly, the Respondent is directed to pay the Petitioner Rs. 1 lakh within 15 days from today.

8. The Petitioner to thereafter report compliance to the Family Court.

9. The Respondent to continue to pay the maintenance amount as per the orders in force. The Petitioner is at liberty to apply for variation in this amount and if such application is made, the same to be considered in accordance with law and on its own merits.

10. With the aforesaid order, this Petition is disposed of.

11. All concerned to act on the authenticated copy of this order.

(M. S. SONAK, J.)