

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

CRIMINAL APPLICATION (APL) NO.436 OF 2018

(Vijay s/o Bhimrao Khandagade Vs. Kalpana w/o Vijay Khandagade and another)

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

Court's or Judge's orders.

Shri Vivek Awchat, Advocate for Applicant.
Shri Abhay Bhide, Advocate for Respondents.

CORAM: ROHIT B. DEO, J.

DATE: 13th JULY, 2018.

1] An interim order is obtained on the basis of submission which if not deliberately false was calculated to mislead this court.

2] The order dated 02.05.2018 read thus:

Heard.

Issue notice for final disposal to the non-applicants, returnable on 11th June, 2018.

Meanwhile, having considered the submission that as per the order of maintenance passed in the Domestic Violence proceedings, this applicant is already paying an amount of Rs.6,000/- per month as maintenance to non-applicant no.1, there shall be interim stay to the interim order to the extent of directing this applicant to pay amount of Rs.3,000/- per month as per maintenance to non-applicant no.1 under Section 124 Cr.P.C. proceedings, until further orders.

3] It is more than obvious that this court was persuaded to stay the order impugned in view of the submission that the applicant is making the payment of maintenance amount awarded in domestic violence proceedings. Paragraph 15 of the application read thus:

15] It is submitted that till 23/04/2018 the applicant has deposited an amount of Rs. 89,000/- before the learned Magistrate in Proceedings U/s 125 of Cr.P.C.

4] The statement in paragraph 15 is again misleading. It is not disclosed that the applicant is in arrears and all that is said is that an amount of Rs.89,000/- is paid.

5] Shri A.V. Bhide, the learned counsel for the non-applicants states at the bar that insofar as maintenance awarded under the provisions of the Domestic Violence Act is concerned, the applicant is in arrears of Rs.1,23,000/- and insofar as the maintenance granted under section 125 of the Criminal Procedure Code is concerned, the applicant is in arrears of Rs.1,07,000/-.

6] Since the interim order dated 02.05.2018 is secured on the basis of submissions which were clearly misleading, the said order is revoked.

7] The applicant is directed to clear the entire arrears due and payable to the applicant by and under the

order impugned and to file an affidavit in the Registry within four weeks. If the arrears are not cleared and an affidavit to the said effect is not filed in this Registry in four weeks, Criminal Application (APL) 436/2018 shall be dismissed without any further reference to the Court.

JUDGE

NSN