

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

CRIMINAL REVISION APPLICATION (REVN) NO. 133/2016

Premdeep S/o Nishikant Matlane,
Age : 34 years, Occupation : Service,
Residing Presently at N-2, CIDCO,
Vitthal Nagar, Aurangabad

.... **APPLICANT**

// VERSUS //

Bhavana W/o Premdeep Matlane,
Age : 33 years, Occupation : Household,
Residing at c/o Mr. Somnath Lohar,
Flat No. 8, Second Floor, Kamla Towers Apartment,
Behind Maa Gayatri School, Gaytri Nagar,
Akola, Taluka and District Akola

.... **NON-APPLICANT**

**WITH
WRIT PETITION NO. 1119/2019**

Premdeep S/o Nishikant Matlane,
Age : 34 years, Occupation : Public Servant,
Residing Presently at N-2, CIDCO,
Vitthal Nagar, Aurangabad 431003

.... **PETITIONER**

// VERSUS //

Bhavana W/o Premdeep Matlane,
Age : 32 years, Occupation : Private Employment,
Residing presently at c/o Mr. Somnath Lohar,
Flat No. 108, Second Floor, Kamla Towers,
Gayatri Nagar, Nr. Maa Gayatri Mandir,
Akola 444005

.... **RESPONDENT**

WITH
CRIMINAL WRIT PETITION NO. 728/2017

Premdeep S/o Nishikant Matlane,
Age : 32 years, Occupation : Service,
Residing Presently at N-2, CIDCO,
Aurangabad

.... **PETITIONER**

// **VERSUS** //

Bhavana W/o Premdeep Matlane,
Age : 31 years, Occupation : Service and Self- Employed,
Residing at c/o Mr. Somnath Lohar,
Flat No. 8, Second Floor, Kamla Towers,
Behind Maa Gayatri School, Gayatri Nagar,
Akola, District Akola 444 001

.... **RESPONDENT**

Shri H.S. Surve, Advocate for the applicant
Shri J. Matale, Adv h/f Shri N.B. Bargat, Adv for the non-applicant

CORAM : Z.A.HAQ, J.
DATED : 28/02/2019

ORAL JUDGMENT :

1] Heard.

2] These three matters are clubbed as the parties in these proceedings are same i.e. Premdeep S/o Nishikant Matlane (husband) and Bhavana W/o Premdeep Matlane (wife). In these three matters, orders passed by different Courts regarding entitlement of the wife for maintenance from the husband are challenged. These matters are listed before me as per the directions of the Hon'ble Administrative Judge.

3] In Criminal Revision Application (REVN) No. 133/2016, the husband has challenged the order passed by the Family Court directing him to pay Rs. 2500/- per month to the wife towards interim maintenance, the interim maintenance being payable from 15/01/2016 i.e. from the date of filing of the application. This order is passed on an application which was filed by the wife in the proceedings under Section 125 of the Code of Criminal Procedure.

4] In Criminal Writ Petition No. 728/2017, the husband has challenged the order passed by the learned Magistrate directing him to pay Rs. 7500/- per month to the wife towards interim maintenance, the interim maintenance being payable from the date of filing of the application. This order is passed on an application which was filed by the wife under Section 23 of the Protection of Women From Domestic Violence Act, 2005.

5] In Writ Petition No. 1119/2019, the husband has challenged the order passed by the Family Court on 25/09/2018 directing him to pay Rs. 750/- per month to the wife towards interim maintenance, the interim maintenance being payable from 02/08/2018 i.e. from the date of filing of the application. This order is passed on an application which was filed in the proceedings under Section 13 of the Hindu Marriage Act.

6] The proceedings are going on before different Courts. The orders upholding the claim of the wife for interim maintenance are passed by the concerned Court, considering the situation which prevailed at the time of passing of the particular order, and if any order came to be passed/modified, subsequently, it created confusion.

7] In all these matters, the only point which requires consideration is about the entitlement of the wife for interim maintenance from the husband and if she is entitled for interim maintenance, the amount for which she is entitled.

8] In the order passed by the Family Court in E.P. No. 143/2015 on 16/07/2016, relying on the salary certificate of the husband for March – April, 2016 (Exh. 23 in those proceedings), it is recorded that net salary of the husband in April, 2016 was Rs. 30,786/-. The learned advocate for the husband has fairly stated that, at present, salary of the husband is Rs. 34,069/- per month.

9] According to the husband, the wife is qualified and has capacity to earn and had been earning since prior to the marriage. The learned advocate for the husband has pointed out the cross-examination of Bhavana W/o Premdeep Matlane (wife) by the advocate of Premdeep Nishikant

Matlane (husband) in E.P. No. 143/2015. Para no. 29 of the cross-examination is relevant and is as follows:-

“It is correct to say that I have worked as a computer teacher in B 4 U computers in the period 2006 to 09/06/07. It is correct to say that I had worked as a Data Entry Operator in Shri Services in the period 04/03/2010 to 03/07/2011. It is correct to say that I had worked as a Data Entry Operator in Vaishali Diseles in the period 14/01/2009 to 20/08/2010. It is correct to say that I had also worked as a Tele Marketer – cum – Data Entry Operator in Weltoll Services in the period 15/08/2011 to 01/03/2012. It is correct to say that I had taken up the said jobs on the basis of my education. It is correct to say that I had undertaken the MCM course as I wanted to stand on my own feet. I have not attempted to take – up a job after coming to my parental home since April 2015. Neither do I feel happy nor do I feel sad or bad about not having taken-up a job inspite of my educational qualifications. I will not be able to state the non-applicant's expenses which he has to meet from his salary. I know some of the expenses which the non-applicant has to meet. Some of the things on which the non-applicant spent money was for his mobile recharge, visiting hotels, travelling, shopping, filling petrol in his vehicle. I cannot state the amount of money which the non-applicant would be spending on the same.”

The advocate for the husband has pointed out the appointment order of Bhavana W/o Premdeep Matlane (wife) which shows that Bhavana

W/o Premdeep Matlane was working with HBL Global Private Limited from July 2016, her basic salary being Rs. 79,872/- per month and her gross salary being Rs. 1,37,388/- per month. The advocate for the husband has fairly pointed out that according to the wife, she has resigned by giving one month's notice on 06/03/2017.

10] Considering the facts of the case, the material placed on record of the proceedings and the cross-examination of Bhavana W/o Premdeep Matlane (wife) as reproduced above, in my view, the wife would be entitled for interim maintenance @ Rs. 10,000/- per month.

11] Hence, the following order is passed:-

ORDER

a) The order passed by the Family Court in E.P. No. 143/2015 on 16/07/2016 and the order passed by the learned Magistrate in Misc. Criminal Case No. 1935/2015 on 06/05/2016, are maintained.

b) The order passed by the Family Court in A.P. No. 16/17 on 25/09/2018 is set aside and the application (Exh. 23) filed by the wife on which this order was passed, is dismissed.

Consequently, the order passed by the Family Court in A.P. No. 16/17 on the application (Exh. 28) on 28/11/2018 does not survive.

c) Premdeep Nishikant Matlane (husband) shall pay Rs. 7500/- per month to Bhavana W/o Premdeep Matlane (wife) towards interim maintenance in M.C.A. No. 1935/2015.

d) Premdeep Nishikant Matlane (husband) shall pay Rs. 2500/- per month to Bhavana W/o Premdeep Matlane (wife) towards interim maintenance in E.P. No. 143/2015.

The above amount shall be payable by Premdeep Nishikant Matlane (husband) to Bhavana W/o Premdeep Matlane (wife) till disposal of the respective proceedings or until further orders are passed by the trial Court.

Till today i.e. 28/02/2019, the entitlement of Bhavana W/o Premdeep Matlane (wife) to receive the amount of interim maintenance as per the orders challenged in these three matters, will be as per the impugned orders.

Criminal Revision Application (REVN) No. 133/2016, Writ Petition No. 1119/2019 and Criminal Writ Petition No. 728/2017 are **disposed** in the above terms. In the circumstances, the parties to bear their own costs.

It is informed that following proceedings between the parties are pending before the Family Court at Akola:-

- (i) Petition No. P.E. No. 143/2015
- (ii) Petition No. P.A. No. 16/2017

The learned Presiding Officer is directed to expedite the proceedings and dispose the same till 30/11/2019. The learned Presiding Officer shall further endeavor to keep the cases on such/same date that inconvenience is not caused to the parties and they are not required to attend the Court on separate dates.

It is informed that Misc. Criminal Case No. 1935/2015 under the Protection of Women From Domestic Violence Act, 2005 is fixed for arguments on 01/03/2019 and as per the directions given by this Court earlier, there is likelihood that it would be disposed in March, 2019. Hence, no further directions are issued regarding those proceedings.

**CRIMINAL APPLICATION (APPR/P) NOS. 329/2018, 209/2017,
228/2017 and 148/2018**

In view of the disposal of Criminal Revision Application (REVN) No. 133/2016, Writ Petition No. 1119/2019 and Criminal Writ Petition No. 728/2017, the prayers made in these applications do not require consideration and the applications do not survive. They are **disposed** accordingly.

JUDGE

Ansari