

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 153 OF 2018

**SUNETTA PERPETUAO FERNANDES @
SWEETA AND ANR.,**

... Petitioners

Versus

JOSEPH MARIAZINHO LEMOS.,

... Respondent

Ms. Analiz Menezes, Advocate for the Petitioners.

**Mr. Valmiki Menezes with Mr. Akshay Shirodkar, Advocates for
the Respondent.**

Coram:- C. V. BHADANG, J.

Date:- 22nd April 2019

ORAL ORDER:

By this petition, the petitioners are seeking enhancement of interim maintenance granted by the Courts below from Rs.25,000/- to Rs.50,000/- per month.

2. The petitioner no. 1 is the wife of the respondent, while the petitioner no. 2 is their son. The petitioners have filed Maintenance Application no. 19/2015, under Section 125 of the Code of Criminal Procedure (Cr.P.C., for short), against the respondent, which is pending before the learned Judicial Magistrate First Class at Margao. In the said application, the petitioners sought interim maintenance of Rs.50,000/- per month.

The learned Magistrate by an order dated 27.04.2016, granted an interim maintenance of Rs.22,000/- per month, from the date of

the application, until further orders. Feeling aggrieved, the respondent filed Criminal Revision Application No. 63/2016, before the learned Sessions Judge at Margao. The learned Sessions Judge by a judgment and order dated 31.08.2017, dismissed the revision application and enhanced the maintenance to Rs.25,000/- per month. By this petition, the petitioners are seeking further enhancement as above.

3. I have heard Ms. Analiz Menezes, the learned Counsel for the petitioners and Mr. Valmiki Menezes, the learned Counsel for the respondent. Perused record.

4. Ms. Analiz Menezes, the learned Counsel for the petitioners has raised a solitary contention. It is submitted that the impugned order does not show as to whether, the interim maintenance granted includes the school fees and the conveyance expenses of the petitioner no. 2. It is submitted that the order to that extent is vague. Except this, there are no other contentions raised.

5. Mr. Valmiki Menezes, the learned Counsel for the respondent has submitted that apart from the interim maintenance, which is regularly being paid by the respondent, the respondent is also incurring the educational fees of the petitioner no. 2. It is submitted that there was no separate claim

towards the conveyance expenses and the maintenance would include all such expenses as normally, maintenance would include expenses as to food, clothing, residence/shelter, medical expenses and other incidental and necessary expenses, which are required to be incurred. It is submitted that, at this stage, the impugned order granting interim maintenance, does not call for any interference.

6. I have considered the submissions made. It is not disputed that the respondent has been regularly paying the interim maintenance, as has been granted and apart from that, has incurred the educational expenses/fees of the petitioner no. 2, who is now aged about 14 years. Thus, the contention as to non payment of educational expenses, to my mind, cannot be accepted. It does not appear from the record that there is any break down of the quantum of the maintenance claimed, given by the petitioners. Be that as it may, at this stage, it does not appear that any separate claim as to the conveyance expenses of the child, to the school was made. In fact, it appears that it was the respondent, who challenged the order of the interim maintenance before the learned Sessions Judge. In such circumstances, I do not find that, a case for interference, is made out. The main application filed under Section 125 of Cr.P.C. is pending from 2015. It would be appropriate that the learned Magistrate takes up the said application expeditiously and the

same is decided at an early date.

7. In such circumstances, the petition is dismissed. The learned Magistrate shall decide the main application as expeditiously as possible and preferably within a period of six months from the receipt hereof. The parties to co-operate for time bound disposal of the matter.

C. V. BHADANG, J.

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