

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 159 OF 2018

SANTOSH JADHAV., ... Petitioner

Versus

SHRADHA JADHAV., ... Respondent

Mr. Amay Arjun Phadte, Advocate for the Petitioner.

Ms. Smita S. Gawas, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 25th March 2019

P.C.

Heard the learned Counsel for the parties.

2. Normally, this Court would be slow in interfering with the interim order of maintenance, when there are concurrent findings of two Courts below, granting interim maintenance to the respondent. It is further a matter of record that the impugned order is passed by the learned Magistrate on 15.12.2016 and till date, the petitioner has not complied with the said order. In other words, there is a clear breach of the impugned order for close to 2 1/2 years now. For this reason also, this Court would be justified in refusing to entertain the petition.

3. The only contention raised on behalf of the petitioner is that the petitioner is a rickshaw driver and is unable to pay

Rs.10,000/- per month to the respondent as interim maintenance. The contention, in my considered view, prima facie, cannot be accepted, for the reason that both the Courts below have concurrently found that the petitioner is an able bodied person and after considering that the petitioner is earning Rs.1,000/- per day and is also getting some additional income by way of rent has directed to pay Rs.10,000/- per month to the respondent. The learned Counsel for the petitioner submitted that the rooms, which are given on rent belong to the father of the petitioner. I am afraid, this aspect cannot be considered in a petition filed under Section 482 of Cr.P.C., particularly when two Courts below, have concurrently found against the petitioner. Admittedly, the marriage between the parties is dissolved by divorce and thus, there is a clear liability on the petitioner to maintain the respondent till she marries. The question is only of quantum, which the learned Magistrate will have to go into at hearing of the main application under Section 125 of Cr.P.C. In such circumstances, I decline to entertain the petition, which is accordingly dismissed. Rival contentions of the parties are left open to be gone into at the stage of hearing of the main application.

C. V. BHADANG, J.