

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO.269 OF 2017
IN
FAMILY COURT APPEAL NO.248 OF 2014**

Shailaja Sanjay Kadam	 Petitioner
versus	
Sanjay Shahaji Kadam	... Respondent

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- Mr.V. S. Gokhale, Advocate for Petitioner.
- Mr.V. B. Tapkir, Advocate for Respondent.

**CORAM : INDRAJIT MAHANTY &
SARANG V. KOTWAL, JJ.
DATE : 25th JANUARY, 2019.**

P.C. :

1. Heard learned Counsel for the parties. This Contempt Petition came to be filed by Petitioner Shailaja Sanjay Kadam, wife of the Respondent/Contemnor, interalia alleging that the Respondent is willfully disobeying the order dated 23/06/2016 passed by this Court in Civil Application No.369/2015. It is submitted that the on 08/01/2014, the Family Court No.1, Pune, had passed decree of divorce in Petition No.A/246/2007 filed by the Respondent/Husband against the Petitioner for divorce.

2. The wife had preferred the present Family Court Appeal No.248/14 before Hon'ble High Court Bombay which was admitted on 30/10/2014. On 23/06/2016 this Court disposed of the said Civil Application No.369/15 directing the Respondent/Husband to pay an amount of Rs.6,500/- per month by way of interim maintenance w.e.f. 01/05/2015. It is alleged by the Petitioner/wife that in spite of the Respondent/Husband having capacity to pay the maintenance in terms of the directions dated 26/06/2016, he has committed willful disobedience of the order of this Court and has committed Civil Contempt under The Contempt of Courts Act 1971 and is liable for punishment under section 12 of the said Act.

3. Notices were issued in this matter. The Respondent/Contemnor did not appear for which reason on two earlier occasions bailable warrants were issued to ensure his presence.

4. The Respondent/Contemnor is represented through his Counsel. It is stated on behalf of the Petitioner that the Respondent has not paid any amount in compliance of the directions of this Court. On the last occasion this matter was listed before us. This Court had directed as follows;

- “1. Heard learned Counsel for the Contemnor. Contemnor is present through his Counsel.*
- 2. Learned Counsel for Contemnor submits on instructions that his client is ready to pay the substantial amount and also to file an affidavit in response to show his bonafides.*
- 3. Matter be listed on 25/01/2019 on which date, the contemnor shall also remain present.”*

5. Today the affidavit has come to be filed on behalf of the Respondent, wherein he has stated that he is ready and willing to pay the maintenance amount. But now he has expressed his inability to pay and prays time for depositing on future dates as explained in the affidavit.

6. We are afraid that explanation as provided in the affidavit cannot be accepted, since despite of recording of the undertaking made by the Respondent time and again, he has not complied with any directions passed by this Court till date. As recorded hereinabove on the last occasion we had given Respondent an opportunity to deposit substantial amount before this Court and then make a prayer for time to make payment of balance amount. But unfortunately today also not a single rupee is offered towards meeting out his legal obligation under the directions of this Court.

7. The outstanding maintenance amount as on date amount to Rs.2,73,000/- as asserted on behalf of the Petitioner. Consequently, we are left with no choice other than to pass the appropriate orders u/s 12 of the Contempt of Court Act.

8. Although prayer has been made for civil imprisonment considering the civil contempt, we direct the contemnor suffer simple imprisonment for a period of 45 days.

9. The learned Counsel pleads for a lesser punishment, since the Respondent is undertaking responsibility for education of both their children as well as he claims to have an ailing father.
10. On the other hand, the learned Counsel for Petitioner asserts that the conduct of the contemnor even in course of the present contempt proceedings would indicate that he has no respect to the Court and repeatedly avoided service of notice and/or appearance before this Court for which reason atleast on two occasions bailable warrants were issued against him to ensure his presence. Further, contemnor has given several undertakings before this Court for making deposition of maintenance, but same has never been complied with by him. Learned Counsel prays that severe sentence shall be imposed on him in order to ensure that the rule of law subsists.
11. Considering the submissions advanced by both the learned Counsel, we direct that the Respondent Sanjay Shahaji

Kadam is sentenced to suffer simple imprisonment for a period of 45 days and he shall be taken into custody forthwith to undergo said sentence.

12. Office is directed to issue necessary committal warrant to the appropriate authority.

13. Contempt Petition stands disposed of accordingly.

14. The Petitioner is at liberty to enforce any other rights that are available in law for recovery of the maintenance allowance.

(SARANG V. KOTWAL, J.)

(INDRAJIT MAHANTY, J.)