

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 2075 OF 2019**

Vipul Saraiya

... Petitioner

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr. Deepak Shukla I/b. Mr. Vijendra Suraj Jabra for the Petitioner.

Ms. Megha Shashi Bajoria appointed Advocate for the Respondent No.2.

Mr. S.S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J

DATED : 26th June, 2019.

P.C. :

1. The learned counsel for the respondent submits that the petitioner who is challenging the order dated 5th December, 2018 before this Court has also filed the Miscellaneous Application before the Family Court at Bandra under Section 127(1) of Cr.P.C., which is registered as Miscellaneous Application No. 2000 of 2019.

2. The learned counsel for the respondent, upon instructions also submits that there are huge arrears and therefore, the respondent has filed the Execution Petition in which, the petitioner has filed the say stating that, said order is under challenge.

3. The execution proceedings are independent proceedings. The petitioner has stated in the execution proceedings that 15 days time to be granted to get appropriate orders from the High Court in regard to the part payment of the maintenance to the petitioner. The petitioner is present in the Court and it is submitted that he would deposit the amount of Rs.1,15,000/- in this Court within 4 weeks from today.

4. In view of this, the execution proceedings can be stayed. However, it is made clear that the stay to the order dated 5th December, 2018 shall remain in force only till the application under Section 127(1) of Cr.P.C. is decided by the Family Court, which shall not be later than 6 weeks.

5. The learned counsel for the petitioner, upon instructions, submits that in view of the fact that the application under Section 127(1) of Cr.P.C. is pending before the Family Court, he would withdraw the present petition. It is made clear that all contentions in the present petition are kept open for the parties. Liberty to the respondent to file the application seeking withdrawal of the amount.

6. The learned Family Court shall not be influenced by any of the observations made hereinabove and decide the application under Section 127(1) of Cr.P.C. within 6 weeks from today. The Family Court shall decide the petition as per the orders of this Court and prepone the date of 8th August, 2019.

7. The learned counsel for the respondent has been appointed through legal aid and she would be entitled to the professional fees as per the rules to be paid by the High Court Legal Aid Services Committee.

8. In view of this, the present Writ Petition stands disposed of.

(SMT. SADHANA S. JADHAV, J)