

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.23/2019

Ramesh S/o Ankalu Tungawar
..Vs..
Smt. Shobah W/o Ramesh Tungawar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. D.I. Charlewar, Advocate for the petitioner.

CORAM : Z.A. HAQ, J.

DATE : 10.1.2019.

In proceedings under Section 127 of the Code of Criminal Procedure 1973, by order dated 2nd April, 2016, the learned Magistrate has directed the present applicant (husband) to pay Rs.5,000/- (Rs. Five Thousand) per month to the non-applicant / wife towards maintenance. This order is challenged by the husband before the Sessions Court in criminal revision. In this criminal revision, the husband has filed an application praying that the effect and execution of the order passed by the learned Magistrate be stayed till the decision of the revision application. On this miscellaneous application, the learned Sessions Judge has passed the impugned order recording that the application praying for interim order shall be decided at the time of final hearing.

The Advocate for the applicant has submitted

that the application praying for interim order is required to be decided immediately and it cannot be rendered infructuous by keeping it pending till the decision of the revision memo.

Considering the facts of the case, in my view, without issuing notice to the non-applicant /wife, the learned Sessions Judge can be directed to decide the application filed by the husband praying for interim order immediately, and not alongwith criminal revision. This order will not cause any prejudice to the non-applicant / wife as the learned Sessions Judge will be hearing her before passing any orders on the application praying for interim relief.

Hence, the following order:

- (i) The impugned order is set aside.
- (ii) The learned Sessions Judge is directed to hear the applicant and the non-applicant and pass appropriate orders on the application filed by the applicant (husband) praying for interim order.
- (iii) The criminal application is **allowed** in the above terms.

JUDGE