

BDP-SPS

Bharat
D.
Pandit

Digitally signed
by Bharat D.
Pandit
Date: 2020.02.24
15:07:39 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.318 OF 2018**

Mr. Tajinder Singh Kamaljeet Singh Chhabda ... Petitioner.

V/s

Mrs. Smita @ Jasveen Kaur Tajinder Singh
Chhabda and Others Respondents.

Mr. Suhas Deokar for the Petitioner.

Mr. Chandrakirti S. Zende i/b Mr. Jayesh Kotecha for Respondent
No.1.

Mr. N.B. Patil, APP for the State.

CORAM: NITIN W. SAMBRE, J.

DATE: FEBRUARY 20, 2020

P.C.:-

1] Heard.

2] Submissions are, parties to the Petition i.e. husband and wife entered into settlement in Family Court Appeal No.293 of 2014 on following terms:-

1. The parties have amicably settled their disputes out of the court and have decided to stay together.

2. By consent the order dated 3rd October, 2013 passed by Learned Family Court, Pune in P.E.308/2012 and in Petition No.A-1233 of 2012 is

set aside.

3. The Appellant wife agrees and undertakes to withdraw all the complaints filed against the Respondent husband and his family members.

4. The Appellant wife further agrees and undertakes not to file any false and/or frivolous complaints against the Respondent husband and his family members.

5. The parties agree that in case of any dispute in future the parties will mutually separate by filing Petition for divorce by mutual consent without any claims against each other.

6. The parties agree in case of separation of mutual consent the custody of the son "Jasveer Singh Chhabda" will remain with father i.e. Respondent herein.

7. In view of the above present Family Court Appeal as well as Criminal Revision Application No.14 of 2014 shall stand disposed of."

As such, Respondent-wife was duty bound to honour the said terms

and that being so ought not to have claimed maintenance.

3] Further submissions are, order impugned passed by the Family Court awarding maintenance of Rs 10,000/- to Respondent-wife and son is at exorbitant rate, as income of the Petitioner is not taken into account.

4] As such, order impugned, awarding maintenance is sought to be upset.

5] Learned Counsel for Respondent-wife submits that meagre maintenance of Rs 10,000/- per month collectively is awarded and as such, order does not call for any interference.

6] As far as issue of income of the Petitioner-husband is concerned, Family Court has considered contentions of Respondent-wife that Petitioner has sold property worth about Rs 2 crores and for himself and his family members by operation of Khalsa Mangal Karyalaya, he is earning Rs 1 lakh to 1.5 lakhs. As such, said source which was not disputed was found to be the basis for awarding maintenance of

Rs 10,000/-.

7] Apart from above, in proceedings, Petitioner has not demonstrated as to whether his income is not sufficient enough to sustain award of maintenance of Rs 10,000/- to his wife and child.

8] As far as issue of consent decree is concerned, Consent Terms itself provide for separation in case of differences between the parties. Fact that custody of the child is with Respondent-wife is not in dispute.

9] In the aforesaid backdrop, no interference is called for on the issue of award of maintenance. Petition fails and same stands dismissed.

10] Amount if any deposited in this Court is permitted to be withdrawn by Respondent-wife in view of dismissal of the Petition.

(NITIN W. SAMBRE, J.)