

Vikram Manmohan Singh Khurana ...Petitioner  
Versus  
Purnima Vishnu Thakur and Anr. ...Respondents

Mr. Prashant Pandey a/w Mr. Tushar Halwai and Ms. Vidhi Karia, for the Respondent No.1.

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 3<sup>rd</sup> SEPTEMBER, 2021**

P.C. :

1. Heard learned Counsel for the parties.
2. By this petition, the petitioner has impugned the order dated 22<sup>nd</sup> March 2021, passed by the learned Additional Sessions Judge, Greater Mumbai below Miscellaneous Application No.2782 of 2019, arising out of C.C. No. 2/DV/2019.
3. At the outset, learned counsel for the petitioner submits that the petitioner is ready to deposit the balance amount of Rs.50,000/- out of

Rs.6,50,000/- as directed by the learned Sessions Judge vide order dated 8<sup>th</sup> January 2020, within one week from today.

4. Learned Counsel for the respondent No.1 submits that apart from the aforesaid amount of Rs.50,000/-, the petitioner is in arrears of about Rs.10,50,000/- till date. He submits that the petitioner be directed to deposit the said arrears and that the respondent No.1 be permitted to withdraw the amounts, so deposited.

5. Perused the papers. The respondent No.1 has filed a D.V. complaint in the Court of the learned Additional Chief Metropolitan Magistrate, 8<sup>th</sup> Court, Esplanade, Mumbai, being C.C. No. 2/DV/2019, as against the petitioner – husband. The learned Magistrate vide order dated 20<sup>th</sup> August 2019 directed the petitioner to pay Rs.50,000/- per month to the respondent No.1- wife towards the interim maintenance from the date of the application i.e. 29<sup>th</sup> January 2019, until further orders.

6. Being aggrieved by the said order, the petitioner challenged the same before the Sessions Court in Appeal. Alongwith the said appeal, the petitioner filed a Miscellaneous Application No.62 of 2020 seeking amendment in Miscellaneous Application No.2805 of 2019 in unregistered

Criminal Appeal. The said application was allowed by the Sessions Judge vide order dated 8<sup>th</sup> January 2020. The operative part of the said order, reads thus:-

**“ORDER**

1. *Misc. Application No.62 of 2020 in Misc. Application No.2805 of 2019 is allowed.*
2. *Appellant is permitted to carry out the amendment as proposed within 14 days from today subject to deposit entire arrears of interim maintenance due from January, 2019 to January, 2020. If part amount was paid then it be adjusted in the total amount.*
3. *After carrying amendment, appellant to serve amended copy of Misc. Application No.2805 of 2019 to the other side and place on record.”*

7. Being aggrieved by the aforesaid order, the petitioner challenged the same in this Court. This Court (Coram: A. M. Badar,J.) vide order dated 25<sup>th</sup> February 2020 dismissed the said writ petition being Criminal Writ Petition No.385 of 2020. However, the petitioner was permitted to deposit the entire balance amount of interim maintenance before the learned trial Magistrate, within 4 weeks from the date of the order. Pursuant thereto in March 2020, the petitioner deposited a sum of Rs.4,25,000/- in the trial Court. It is not in dispute that in addition to the said amount, Rs.1,75,000/- was paid by the petitioner to the respondent No.1 directly. Thus, the petitioner in all had paid/deposited Rs.6,00,000/-,

out of Rs.6,50,000/- required to be deposited pursuant to the order dated 8<sup>th</sup> January 2020. As the said balance amount of Rs.50,000/- was not deposited and there was non-compliance of the order dated 8<sup>th</sup> January 2020, the learned Judge rejected the petitioner's application seeking amendment.

8. Today, the learned counsel for the petitioner, on instructions, states that the petitioner will deposit Rs.50,000/- within one week from today. Statement accepted. On depositing the said amount of Rs.50,000/- the petitioner will be complying with the order dated 8<sup>th</sup> January 2020, as reproduced in para 6 of this order.

9. Accordingly, the impugned order dated 22<sup>nd</sup> March 2021, passed by the learned Additional Sessions Judge, Greater Mumbai below Miscellaneous Application No.2782 of 2019, arising out of C.C. No. 2/DV/ 2019, dismissing the petitioner's application seeking amendment, is quashed and set aside, subject to petitioner depositing Rs.50,000/- in the trial Court, within one week from today. On depositing the said amount, the petitioner is permitted to amend Miscellaneous Application No.2805 of 2019 in unregistered Criminal Appeal. The said amendment to be carried out within two weeks of depositing Rs.50,000/-.

10. As noted earlier, the petitioner had already deposited Rs.4,25,000/- in the trial Court, without prejudice. The respondent No.1 is permitted to withdraw Rs.4,00,000/- from the said amount, without prejudice. All contentions of all parties are kept open.

11. Petition is disposed of on the aforesaid terms.

12. All concerned to act on the authenticated copy of this order.

***REVATI MOHITE DERE, J.***