

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.39 OF 2020

1. Sau. Priyasheela W/o Sandesh Phopre,
Aged about 36 years,
Occupation - Household.
2. Kumari Anika D/o Sandesh Phopre,
Aged about 4 years,
Occupation - Student,
through her natural guardian mother,
i.e. Applicant No.1.

Both R/o C/o Rajendra Motghare,
Plot No.63,
Flat No.2, Saikripa Apartment,
Vijaynand Society,
Narendra Nagar,
Nagpur-440015.

...PETITIONERS

Versus

Shri Sandesh S/o Shrihari Phopre,
The Bank Manager,
Bank of Maharashtra,
Tulane Building, Market Yard,
Loni, Taluka Warud,
Dist. Amravati.

Permanent Address :

V.H.B. Colony,
Plot No.4/6, Near Sindhi Hindi
High School, Panchpaoli,
Nagpur 440017.

...RESPONDENT

Mr. R.M. Meshram, Advocate for Petitioners.
Mr. A.A. Dhawas, Advocate for Respondent.

CORAM : ROHIT B. DEO, J.
DATE : 1st JULY, 2021

ORAL JUDGMENT :

1. Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Petitioner 1 Mrs. 'P' and respondent Mr. 'S' are legally wedded wife and husband, and petitioner 2 is the child from the wedlock.

3. Mrs. 'P' is aggrieved by the quantum of interim maintenance of Rs,6,000/- per month awarded by the learned Judicial Magistrate First Class, Mohadi, in Miscellaneous Criminal Case 139 of 2019.

4. The learned Magistrate awarded interim monthly maintenance of Rs.2,000/- to Mrs. 'P' and Rs.4,000/- to the child.

5. Mr. Meshram, the learned counsel for Mrs. 'P' and the child, would submit that admittedly Mr. 'S' is an officer working with a nationalized bank and that the petitioners are forced to reside in rented premises. Mr. Meshram would submit that the monthly maintenance of Rs.6,000/- is grossly inadequate to meet the day-to-day expenditure of the petitioners.

6. Mr. Dhawas, who appears on behalf of Mr. 'S', has a different narrative, and *inter alia* emphasis the qualifications of Mrs. 'P' and her potential to earn.

7. The main proceedings are pending since 2019 and due to reasons beyond the control of the litigants and the Court, this petition is pending since January 2020.

8. Without intending to make any observation on the merits of the matter, in my considered view, rather than deciding the correctness of the rival submissions touching the quantum of interim maintenance, it would be appropriate to direct the learned Magistrate to decide the main proceedings within a stipulated period.

9. In view of the submission of Mr. Meshram that the educational expenditure and certain other expenditure to take care of the needs of the child is to be incurred in immediate future, I consider it appropriate to direct the respondent Mr. 'S' to deposit/transfer an amount of Rs.50,000/- in the account of Mrs. 'P' within a period of ten days from today.

10. Needless to record, that the parties shall extend utmost co-operation to the learned Magistrate to ensure that the main proceedings are expeditiously

disposed of.

11. The learned Magistrate is requested to finally dispose of the application under Section 125 of the Code of Criminal Procedure, 1973, as expeditiously as possible and in any event within a period of three months from the date of appearance of the parties.

12. The parties shall appear before the learned Magistrate on 7-7-2021 and bring this order to the notice of the learned Magistrate.

13. It is further needless to mention that the order impugned continues to hold the field and the interim maintenance, as awarded, shall be regularly paid to the petitioners. The *ad hoc* payment of Rs.50,000/- shall be adjusted against the final maintenance, if awarded by the learned Magistrate.

14. The petition is disposed of in the aforestated terms.

JUDGE.

Lanjewar