

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

CRIMINAL APPLICATION (APPR) NO.161 OF 2021
IN
CRIMINAL REVISION APPLICATION (REVN) NO.118 OF 2021

Sandeep Nanaji Dongare,
Aged about 31 years,
Occ: Private Job,
R/o Taloja, A. V. Raigad,
Navi Mumbai 410208. **APPLICANT**

...V E R S U S...

1. State of Maharashtra, through
PS. Wadi, Nagpur City.
2. Karishma Sandeep Dongare,
Aged about 26 years,
R/o C/o vinodji Meshram,
Plot No.83, Movade Layout,
Aathava Mail, Amravati Road,
Post Wadi, Nagpur 440023. **RESPONDENTS**

Mrs. Priyanka Ritesh Arbat (Awathale), Advocate for
Applicant.
Mr. M. K. Pathan, APP for Respondent 1/State.

CORAM: **ROHIT B. DEO, J.**
DATE: **17th DECEMBER, 2021.**

ORAL JUDGMENT:

I have heard the learned counsel for the applicant
both, on the aspect of condonation of delay and on merit.

2. The applicant Sandeep Dongare is challenging the order dated 24.11.2020 rendered by the learned 18th Judicial Magistrate First Class, Nagpur in Miscellaneous Criminal Application 4693/2019 whereby the applicant is directed to pay monthly interim maintenance of Rs.6000/- (Rupees Six Thousand) to the non-applicant 2 wife and the child from the date of the application.

3. The learned Magistrate has noted that despite grant of ample opportunity, the applicant husband did not oppose the application seeking interim maintenance. The learned Magistrate has found that the domestic violence report incorporates specific allegations of domestic violence against the husband and that the wife and her minor son are residing at the paternal home of the wife. The learned Magistrate directed payment of monthly interim maintenance, as aforenoted.

4. The husband preferred Criminal Appeal 10/2021. Apart from contending that the husband could not appear due to the COVID-19 situation, the husband contended that the wife is a Commerce Graduate and that she can maintain herself and the son by working.

5. The Appellate Court noted that the High Court directed that during the period concerned the interim applications in matrimonial matters including domestic violence matters be heard on merit. The Appellate Court reasoned that since the order is an interim order, no interference is necessary.

6. Considering that the applicant is in arrears of the payment of maintenance, and the judicial order is not complied with, this Court while order dated 02.12.2021 directed the husband to deposit the arrears of maintenance within the next two weeks and to continue to pay maintenance regularly.

7. The learned counsel says that she has no instructions from the applicant husband whether the direction is complied with.

8. While the husband has not opposed the application for maintenance in the 1st Court, even according to the averment in paragraph 10 he is working at Mumbai as an Engineer and draws salary of Rs.45000/- (Rupees Forty Five Thousand). The applicant does assert that he has taken a personal loan for the purpose of medical treatment of his mother and that he is required

to take care of the educational expenses of his brother. However, the applicant cannot leave his wife and the minor son in lurch. It is well settled, that the expenditure to which a reference is made, cannot be considered for determining the quantum of compensation. The first and foremost duty of the applicant husband is to maintain his wife and the child.

9. While the application for condonation of delay is allowed, I see no reason to interfere in the order impugned on merits.

10. Criminal Revision Application 118/2021 is dismissed with costs.

JUDGE

NSN