

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 CRIMINAL WRIT PETITION NO.898 OF 2022

ALEEMUDDIN EKRAMUDDIN SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr Sarita V Gaikwad
APP for Respondent/State : Mr S.P. Deshmukh

CORAM : SHRIKANT D. KULKARNI , J.

DATE : 4th AUGUST, 2022

PER COURT :

1. The petitioner/husband has challenged the order of interim maintenance passed by the Family Court Judge, Aurangabad below Exh.7 in Petition No. E-17/2021 (Interim Application No. 9/2021).

2. Heard Ms Sarita Gaikwad, learned counsel for the petitioner. She submitted that the amount of interim maintenance fixed by the learned Family Court Judge is very much unreasonable. The petitioner is a labour and doing the job of delivery boy. Respondent No. 2/wife has left the matrimonial home at her own wish. In that background, respondent No.2/wife is not entitled to get any interim maintenance. She has no right to claim interim maintenance when she has left the matrimonial house on her own. She therefore, urged to grant stay to the proceedings pending before the Family Court as well as to quash the impugned order dated 16th April, 2022 passed by the Family Court Judge, Aurangabad. The learned counsel for the petitioner submits that the mother of the petitioner, who is widow also dependent on him and this fact is not considered by the Family Court.

3. Heard Mr S.P. Deshmukh, learned APP for the State/ respondent No.1, who has supported the impugned order. He submitted that the impugned order is reasonable having regard to the status of both the sides and no interference is required.

4. On careful study of the impugned order dated 16th April, 2022, it is evident that the learned Family Court Judge has considered the status of both the sides. The Family Court Judge has taken into consideration that the petitioner is a labour. By taking into consideration the status of both the sides, their earning capacity and the day to day needs of the wife and daughter fixed the interim maintenance @ Rs. 2,000/- per month each. The order of interim maintenance passed by the Family Court Judge cannot be said to be unreasonable having regard to the price index and the prices of essential commodities. The order of interim maintenance can be interfered only if it is *ex-facie* illegal or unreasonable amount of interim maintenance determined by the Court below.

5. I do not find any error on the part of the Family Court Judge while determining the amount of interim maintenance allowance. There is no merit in the petition. It is liable to be dismissed without issuing any notice to the opposite side.

ORDER

- (i) The Criminal Writ Petition stands dismissed.
- (ii) No order as to costs.

[SHRIKANT D. KULKARNI, J.]

mta