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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 8 OF 2020

CLITONIO PINTO., ... PETITIONER
VS
FILOMENA PINTO AND 5 ORS., ... RESPONDENTS

Mr. Ryan Menezes, Advocate for the Petitioner.

Mr. L. Raghunandan, Advocate under the Legal Aid Scheme
for Respondent No. 1.

Mr. Pavithran A.V., Advocate under the Legal Aid Scheme
for Respondent Nos. 2 and 3.

Mr. Pravin Faldessai, Additional Public Prosecutor for
Respondent Nos. 4 and 6.

CORAM: G.S. KULKARNI, J.

DATED: 6 SEPTEMBER 2022

ORAL ORDER.

1. This Petition has been filed assailing judgment and order dated 09.12.2019 passed by the Court of Deputy Collector and Sub Divisional Magistrate, Sub-Division, Margao, whereby, a complaint of respondent no. 1-mother, filed under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 came to be allowed in terms of the following order:

"1. The Respondent Nos. 1 to 3 are directed to pay the complainant an amount of Rs.3,000/- each (Rupees Three Thousand only) per month towards maintenance of the complainant.

2. *The said amount of Rs.3,000/- shall be deposited in the bank account No. 520101039804654 of Corporation Bank, Bazilvado Plaza, NH 17, Dandevado, of the complainant.*

3. *The said amount towards the maintenance of the complainant shall be paid on or before 5th day of every month by the respondents from the date of this order.*

4. *The respondent no. 1 is directed to provide the complainant shelter and entry into the house on receipt of this order with immediate effect.*

5. *The Police Inspector Cuncolim Police Station to grant police protection to the complainant on the day of entry and stay in her own house.*

6. *The respondent no. 1 shall not cause any harassment to the complainant failing which deem fit action will be initiated against you."*

2. This petition was heard by the co-ordinate Benches from time to time. The parties were also referred to mediation, which is said to have been failed. Yesterday (05.09.2022) when the matter was placed before this Court, the parties had taken a fair stand. Learned Counsel for the parties informed the Court that the disputes could be resolved. Accordingly, the Court adjourned the hearing of the present proceedings for today.

3. Today, the learned Counsel for the petitioner has placed on record an affidavit of the petitioner setting out that the petitioner has no grievance against the respondent no. 1-mother. He states that he does not have any issue in regard to the directions as made

against him as contained in the impugned order passed by the Deputy Collector & SDM to maintain respondent no.1-mother, as also in regard to the directions to provide shelter to her as was available to her prior to the impugned order. He has stated that he has paid all the amounts to respondent no.1-mother as directed by the Court in its order dated 17.12.2021. It is also stated that the respondent no. 1-mother is residing in the house referred to in direction no. 4 of the impugned order. It is also stated that the petitioner shall continue maintaining respondent no. 1 by making payment of an amount of ₹3,000/- per month even if an order dated 09.12.2019 was to be set aside. It is also stated that the respondent no. 1-mother is residing in the house as described in the impugned order and at present, the petitioner is not residing in the said house and shall not prevent or obstruct the mother from residing in the said house or in any manner interfere with her occupation thereof. Insofar as paragraph 7 of the affidavit of the petitioner is concerned, the learned Counsel for the petitioner, on instructions from the petitioner who is present in the Court has stated that the petitioner may be permitted to delete paragraph no. 7 of the affidavit. Accordingly, paragraph 7 is permitted to be deleted and shall not form part of the record. In paragraph 8 of the affidavit the petitioner has also stated that there was no warrant for the allegations against him and the consequent findings recorded by the Deputy Collector in the impugned order. The learned Counsel for the petitioner on instructions states that the petitioner will not cause any harassment of whatsoever nature to the respondent no. 1-mother. Statement is accepted

4. The learned Counsel for the respondent no. 1-mother is agreeable to the terms as set out in the affidavit of the petitioner dated 06.09.2022. He, however, submits that the anxiety of respondent no. 1 mother is that such situation for respondent no. 1 to invoke Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ought not to arise in future.

5. In view of the fair stand taken by the petitioner in the affidavit, contents of which are noted above, the learned Counsel for the respondent no. 1, on instructions, states that in view of the amicable resolution of such issues, the respondent no. 1, would also withdraw all allegations as made against the petitioner.

6. The Court appreciates the stand taken by both the parties. It is unfortunate that such proceedings were required to be initiated. Be that as it may, the petitioner has taken a fair stand and has also stated that he shall continue to pay respondent no.1-mother ₹3,000/- per month. The daughter i.e. respondent no. 3 does not have any grievance as to the payment of ₹3,000/- per month, which she is paying, so also, respondent no. 2-daughter-in-law is paying such amount. They shall continue to pay the said amounts.

7. It is informed by the learned Counsel for the respondent no. 1 that there are still arrears of maintenance amount payable by the petitioner to respondent no. 1-mother which are in the tune of ₹36,000/- as on date. The learned Counsel for the petitioner states that insofar as the said arrears are concerned, an amount of ₹18,000/- i.e. 50% of ₹36,000/- shall be paid by the petitioner to respondent no.1-mother within one week from today and the balance amount of ₹18,000/- shall be paid within a period of two weeks thereafter. The statement of such payments made on behalf of the petitioner is accepted. It is also directed there shall be no default in payment of ₹3,000/- per month in future and the mother should not be required to file proceedings in that regard. In the event, there are two consecutive defaults in making the payment to the respondent no. 1, the respondent no. 1 is free to assert her rights in that regard under the impugned order, including to approach this Court in the present proceedings.

8. The Petition is accordingly disposed of in terms of what has been observed above. I have accepted the statement as made on behalf of the parties and as noted above.

9. At this stage, the learned Counsel for the petitioner states as the parties have amicably settled the disputes, the impugned order may to be set aside. The learned Counsel for the respondent no. 1-mother would also have no objection for such course of action. Accordingly by consent of parties, the impugned order is set aside. However subject to the above observations.

10. Disposed of in the above terms. No costs.

G.S. KULKARNI, J.