

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 214 OF 2022

Sandip Dattatray Jagdale .. Petitioner
Versus
Shweta Sandip Jagdale and ors. .. Respondents
...

Mr. Kunal B i/b Akshay Pawar for the Petitioner.

Mr. Bhushan Mandlik for the Respondent.

...

CORAM: BHARATI DANGRE, J.
DATED : 14th JULY, 2022

P.C:-

1. By present petition, an order passed by Family Court, Kolhapur on 18/11/2021 is challenged by the petitioner husband, who has been directed to pay maintenance of Rs. 8,000/- per month for the respondent wife and Rs. 4,000/- for their daughter, aged 2 years, from the date of the application i.e. 22/1/2021

2 Heard the learned counsel for the petitioner and learned counsel for the respondent.

The impugned order came to be passed in petition No. E-4/2021, filed by the wife seeking maintenance under section 125 of the CrPC. The maintenance is claimed for herself as well as her daughter on the ground that she is unable to maintain herself and, on the other hand, the husband is working as Force-I

Commando and earning a salary of Rs. 55,000 per month his affluent life style has been projected and has Juxtaposed against her financial position.

3 The petition was contested and the wife filed her affidavit of assets and liabilities and projected before the Court that her monthly expenses are about Rs.25,000/- per month including the rent, household expenses, medical expenses, transportation etc. The husband has also filed an affidavit of assets and liability and stated that his monthly expenses are Rs. 26,605/- and his income in hand is Rs. 29,400/-. Based on the aforesaid document placed on record, the Court deemed it fit to pass the impugned order.

4 The learned counsel for the petitioner had placed on record a compilation of documents, which includes a document showing that when the petitioner was attached to the office of Inspector General of Police (Force- I), State of Maharashtra, his basic pay was Rs. 26,800/- and with incentive of Rs. 26,800/- his total earnings is worked out as Rs.65,046/-, with the net pay of Rs.52,817/-

5 It is, misfortune, since the wife has made complaints and also addressed letters to his Commandand, he was shifted back to his original post and his salary certificate for month of April 2021, is also placed on record, which reflects his basic salary as Rs. 26,800/- with the necessary allowances, his earnings are reflected as Rs. 38,566/- per month after the necessary recovery,

his net pay is shown as Rs.28,722/-.

From the salary slip placed on record, his net pay is reflected as Rs.28,722/-. The Family Court, in the impugned order, has considered his net salary as Rs. 29,400/- and accepted that he has to pay EMI of Rs. 21,000 towards housing loan and some amount towards insurance and other expenses and his cash in hand was submitted to be Rs. 2,795/- However the Family Court, on perusal of the documents relating to house property, had arrived at a conclusion that the wife is entitled to Rs 8000/- per month and daughter is entitled to Rs. 4,000/- per month by way of maintenance.

The compilation also comprised of the loan amounts, which is in the name of the petitioner and his father Dattatray Jagdale.

The counsel for the respondent wife has disputed that the loan is still outstanding, since according to him the property is already being sold.

Without going into the said aspect of the matter, accepting the earnings of the petitioner to be Rs.28,721/- as in year 2021, it would be appropriate that he shall be fastened with the liability of Rs. 10,000 towards maintenance, Rs.6,000/- for wife and Rs.4,000/- for daughter.

6 The impugned order therefore deserve the modification to

the aforesaid extend, however liability fasten upon the petitioner shall be discharged upon from the date of the application. i.e. on 22/01/ 2021.

The counsel for the petitioner is directed to clear the arrears within period of six months. He shall also make payment of at list 50,000 towards maintenance within a period of four weeks from the date of the passing of the order.

7 The Family Court is also directed to expedite the petition E- 4/2021 and shall dispose off the same within a period of 8 months from today.

(SMT. BHARATI DANGRE, J.)