

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3354 OF 2021
IN
WRIT PETITION NO.822 OF 2020

Saumya Sharan & Anr.

...Applicants

Vs.

Shubhashish Prabhu Sinha

... Respondent

Ms.Pooja Jalan for the Applicants.

Mr.Shailesh Pathak i/b Mr.Amit P. Ghag for the Respondent.

Ms.Veera Shinde, APP, for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 1 AUGUST 2022

P.C.

. This is an Application filed seeking withdrawal of the amount of Rs.6 Lakhs, deposited before this Court, towards arrears of maintenance payable to the Applicant No.1-Saumya Sharan.

2. I have heard learned counsel for the parties.

3. The learned Additional Chief Metropolitan Magistrate (ACMM) by an order dated 10 April 2019 has granted a maintenance @ Rs.20,000/- per month to the Applicant No.1. The Respondent-Husband unsuccessfully challenged the same

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before the learned Sessions Judge where the Revision Application filed by the Respondent-Husband was dismissed on 20 November 2019, which order is subject matter of challenge in WP No.822 of 2020. The Respondent-Husband has deposited an amount of Rs.6 lakhs towards maintenance.

4. It is submitted by the learned counsel for the Applicant No.1 that earlier the Applicant No.1 was working with Deloitte and she is presently out of her job. It is submitted that although the maintenance has been granted way back on 10 April 2019, the Applicant No.1 has not received any amount till today. It is submitted that as on today a further amount of Rs.3,40,000/- is in arrears towards maintenance.

5. The learned counsel for the Respondent-Husband has placed reliance on the decision of the Supreme Court in *Rajnish V/s. Neha and Another*¹, in particular Paragraph No.81(b), in order to submit that none of the parties have filed affidavit of Disclosure of Assets and Liabilities before the learned ACMM. He therefore submitted that the main Petition can be disposed of by remanding the matter to the ACMM, where the parties can produce affidavit of the Disclosure of Assets and Liabilities. He submitted that till that time the amount can be kept in the custody of the Court.

1 2020 SCC Online SC 903

6. I have considered the submissions made.

7. As noticed earlier the maintenance has been granted to the Applicant No.1 on 10 April 2019 and the Respondent-Husband has deposited an amount of Rs.6 Lakhs before this Court on 10 March 2021. The present Application is pending from 30 March 2021. The object and purpose of the grant of maintenance is to provide immediate sustenance to the Applicant. The contentions raised on behalf of the Respondent can be considered when Writ Petition No.822 of 2020 is taken up for admission/final disposal. However, for that purpose the amount cannot be withheld from being paid to the Applicant No.1. It may be mentioned that according to the Applicant No.1 there are further arrears of Rs.3,40,000/-. In such circumstances, the Application is allowed. The amount of Rs.6 Lakhs deposited before this Court are permitted to be withdrawn by Applicant No.1-Saumya Sharan on proper identification. Ordered accordingly.

8. Writ Petition No.822 of 2020 to stand over to 8 September 2022 for admission/final disposal.

C.V. BHADANG, J.