

2. The petitioner, who initially appeared in person, has today appointed an Advocate. Learned Counsel states that he is ready to proceed with the hearing of the aforesaid Interim Application / Petition. The petitioner also has no objection to Mr. Sethna arguing the aforesaid Interim Application / Petition. Mr. Sethna states that further direction be given to the Registry to accept the vakalatnama of the Advocate on record on behalf of the petitioner. Accordingly, the Registry to accept the vakalatnama filed on behalf of Ms. Sheetal Shah.

3. Heard learned Counsel for the parties.

4. By this application, the applicant seeks the following reliefs;

“(A) Orders be passed to the Additional CP to execute the Distress Warrant orders within 3 days time.

(B) Henceforth, the Additional CP to be assigned to execute all Family Court orders and they are to be executed within 3 days time of receiving the Applications from the Applicant.

(C) The Hon’ble Family Court be directed to hold expedited hearing and to complete all proceedings of Mrs. Sheetal Shah within 15 days time from today’s orders being passed.

(D) The Domestic Violence Case of Mrs. Sheetal Shah be taken up on priority and to be closed within the next 7 days time and final orders be passed within 10 days time.

(E) The Additional CP to consider this Interim Application as a Representation. The Additional CP is to take cognisance of the said representation within 2 weeks time. The Additional CP to submit his necessary action report into the Criminal Writ Petition No. 3402 of 2019 on the next hearing date to be held just before the close of the Summer Vacation break.

(F) Liberty be granted to the Petitioner to amend her Criminal Writ Petition 3402 of 2019 further within 2 weeks

time on the lines of this Interim Application.

(G) *With these passed orders, this Interim Application be disposed off and the Petitioner be granted liberty to amend her Criminal Writ Petition No. 3402 of 2019 to tune it to the averments and prayers as stated in this Interim Application.*

(H) *Such further and other relief as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case may be granted to the Petitioner and for this act of kindness and justice, the Petitioner as in duty shall ever pray."*

5. As far as **prayer clause (A)** is concerned, which reads thus, ***"Orders be passed to the Additional CP to execute the Distress Warrant orders within 3 days time."***, it appears that the Family Court, vide order dated 17th October, 2019 in Darkhast proceeding, had issued Distress Warrant as against the petitioner's husband, as the petitioner's husband had failed to comply the order of interim maintenance awarded to the petitioner and her sons i.e. had failed to comply with the orders of the Family Court dated 25th November, 2019, passed below Exhibit -1 i.e. non-payment of maintenance.

6. Learned Counsel for the petitioner states that the Darkhast proceeding was for recovery of an amount of Rs.1,86,00,600/- and for other reliefs. He submits that vide order dated 25th November, 2019, 15 days time was given to the petitioner's husband to bring a specific stay order against the Distress Warrant, failing which, the Distress Warrant would be sent for execution. As there was no stay to the said order dated 25th

November, 2019, the learned Judge, Family Court, vide order dated 10th December, 2019, sent the Distress Warrant for execution. Learned Counsel further submits that thereafter, the petitioner's husband filed a review application, seeking review of the order dated 25th November, 2019. He submits that the said application was partly allowed, inasmuch as, the petitioner's husband's prayer to review the order dated 25th November, 2019 was rejected, however, the petitioner's husband was directed to give a bank guarantee of the entire Darkhast amount, as security within two days, from the date of the order and only on this condition being complied with, the said Distress Warrant was stayed. The Court had clarified, that if the petitioner's husband failed to submit the bank guarantee within two days of the order, then the Distress Warrant be sent for execution. Learned Counsel for the petitioner submits that thereafter, petitioner took steps to execute the Distress Warrant, however, the same was not executed. Learned Counsel makes a grievance that the police have failed to execute the Distress Warrant.

7. It appears that the petitioner's said petition in the Family Court was dismissed for non-prosecution in December, 2020 and the said proceeding in the Family Court has been restored only recently i.e. on 18th April, 2022. Hence, it appears that the Distress Warrant could not be

executed during the said period.

8. Be that as it may, since the proceeding has been restored, learned Counsel for the petitioner states that the petitioner will file an appropriate application seeking execution of the earlier Distress Warrant or will file a fresh application seeking issuance of Distress Warrant as against the petitioner's husband, within one week from today. If such an application is filed, the learned Judge to decide the said application as expeditiously as possible, in accordance with law.

9. Coming to **prayer clause (B)** which reads thus, "***Henceforth, the Additional CP to be assigned to execute all Family Court orders and they are to be executed within 3 days time of receiving the Applications from the Applicant.***", the same cannot be granted, inasmuch as, there is a procedure for execution of the Family Court's order and that the petitioner will have to take steps, in accordance with law, for execution of the said order.

10. As far as **prayer clauses (C) and (D)** are concerned, inasmuch as, it seeks a direction to expedite all the proceedings, the petitioner is always at liberty to apply before the concerned Court's, for considering the

said prayer.

11. As far as **prayer clause (E)** is concerned which reads thus, “*The Additional CP to consider this Interim Application as a Representation. The Additional CP is to take cognisance of the said representation within 2 weeks time. The Additional CP to submit his necessary action report into the Criminal Writ Petition No. 3402 of 2019 on the next hearing date to be held just before the close of the Summer Vacation break.*”, the same cannot be granted having regard to the order passed hereinabove.

12. As far as **prayer clauses (F) & (G)** are concerned, the said prayers do not survive, as we have already granted petitioner leave to amend the aforesaid Writ Petition, pursuant to which, the petitioner has amended the aforesaid petition.

13. The application is disposed of on the aforesaid terms.

14. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)

(S. S. SHINDE, J.)