

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 770 OF 2021  
ALONGWITH  
INTERIM APPLICATION NO. 819 OF 2021**

Mrs. Dhanashree Abhay Sakhale .. Petitioner

Vs.

The State Of Maharashtra & Anr. .. Respondents

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Ms. Rajashree Gurav, Advocate for the petitioner.

Mr. A. R. Patil, APP for the Respondent No. 1-State.

None for Respondent No.2.

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**CORAM : PRAKASH D. NAIK, J.  
DATE : JUNE 20, 2022**

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**PC.**

1. The petitioner has sought the following prayers in Writ  
Petition No. 770 of 2021 which reads as under:-

“a. this Hon’ble Court may be graciously pleased to  
quash and set aside the order dtd. 24/11/2020  
passed by the Hon’ble Sessions Court, Mumbai and  
direct the Respondent no.2 to pay school fees of Rs.  
1,53,000/- for 2020-2021 and balance Rs. 40,300/-  
for 2019-2020 totaling to Rs. 1,93,300/- at the  
earliest;

b. this Hon'ble Court may be graciously pleased to direct the Respondent to forthwith clear the arrears of maintenance for last six years amounting to Rs. 9,39,000/- up to December 2020, failing which he may be convicted and not released unless the arrears are cleared;

c. this Hon'ble Court may be graciously pleased to take stern action against the Respondent no.2 and his advocate, Rakesh Agarwal for practicing fraud on appellate court resulting into grave injustice to her and her minor;

d. The Respondent no.2 and his employer have intentionally failed and neglected to comply with the order dtd. 12/1/2018 by not crediting maintenance of Rs. 39,000/- pm for last three years amounting to contempt of court, therefore suo moto contempt proceedings may be initiated against them."

2. In the Interim Application No. 819 of 2021, the applicant has prayed for following reliefs which reads as under:-

"a. this Hon'ble Court may be graciously pleased to direct the Respondent no.2 to reimburse the amount of Rs. 1,13,114/- without any further delay;"

3. The petitioner has initiated the proceedings under the Domestic Violence Act against respondent No.2 which are pending before the Court of Learned Metropolitan Magistrate. Respondent No.2 is the husband of petitioner.

4. Learned advocate for the petitioner submitted that the Sessions Court vide order dated 24.11.2020 maintained the order dated 26.02.2020 passed by learned Metropolitan Magistrate below exhibit 609 however, respondent no.2 was directed to pay the two installments of the school fees of the minor son of Rs. 39,000/- each out of the arrears of maintenance amount to the school. The first installment of Rs. 39,000/- to be paid within a period of 15 days. Remaining installment of Rs. 39,000/- to be paid as per convenience of the school. It is submitted that the amount of Rs. 78,000/- was paid by the respondent no.2 however, the petitioner had deposited the amount of Rs. 1,30,000/- towards school fees of minor son which may be reimbursed to the petitioner. The order dated 24.11.2020 may be set aside to the extent of maintaining the order of the learned Metropolitan Magistrate. Learned counsel relied upon the receipt of payment towards the school fees.

5. Respondent No.2 has filed common reply in both the petitions dated 19.01.2021. In the reply, it is stated that the

petitioner is guilty of suppressing material facts from the Court. The petitioner has filed many applications in the trial Court. She has initiated several proceedings. The proceedings under the Domestic Violence Act are pending before the Trial Court. The petitioner has filed application for school fees of minor son for the academic year 2020-2021 for 1<sup>st</sup> standard to the tune of Rs. 3,00,000/-. The petitioner has filed an application for claiming school fees in the sum of Rs. 3,00,000/- per annum. Although, it was orally submitted that the petitioner was claiming Rs. 7,00,000/- per annum. It is not possible to afford the fees of international school. Several other contentions are urged in the reply. The petitioner has received huge amount of Rs. 25,41,724.87/- till the relevant time. Thereafter, all the funds, bonds and units of the petitioners were already exhausted by making the payments. Respondent No.2 was in jail. The petitioner had received maintenance.

6. Several contested issues are raised in these proceedings. From the application preferred by the petitioner and the

documents relied by petitioner, it appears that the petitioner had paid school fees as stated in the prayer clause of the petition/application. The petitioner has claimed reimbursement of Rs. 1,13,114/- towards the school fees by the petitioner by adjusting two installments received in accordance with order dated 24.11.2020 passed by Sessions Court. Other reliefs sought by the petitioner in this petition and the application are not granted to the petitioner nor any findings are given on merit of the said contentions with liberty to move appropriate Court.

7. These proceedings were initially heard on 12.04.2022. Both sides were heard. Learned counsel for the petitioner, however, sought time to argue in rejoinder and hence the proceedings were adjourned to 21.04.2022. Thereafter, the assignment had changed. Now, as per assignment, the matter is listed before this Court. Learned Advocate for petitioner was heard on 13.06.2022 and the proceedings were kept today for passing order. The Advocate for respondent No. 2 was not present on 13.06.2022 and today. I have referred to the prayer in this petition as well as in the interim application.

8. Order dated 24.11.2020 passed by the Sessions Court, is set aside to the extent of maintaining lower Courts order. Respondent No.2 is directed to reimburse the amount of Rs. 1,13,114/- to the petitioner. If any, arrears are pending towards the maintenance, the petitioner is at liberty to initiate proceedings before the concerned Court. It may not be construed that this Court has given any finding on merits of the said prayer. The petitioner may prefer appropriate application for regular school fees before the trial Court. Hence, I pass the following order: -

**ORDER**

- (i) The order dated 24<sup>th</sup> November, 2020, passed by the Sessions Court, is set aside;
- (ii) Respondent No.2 is directed to reimburse the amount of Rs. 1,13,114/-, towards the school fees of petitioner's son to the petitioner within a period of two weeks from today;
- (iii) The petitioner is at liberty to initiate appropriate proceedings for clearance of arrears of maintenance, if

any, as claimed in prayer clause (b) of the Petition;

- (iv) The petitioner may prefer appropriate application for regular school fees before trial Court;
- (v) Writ Petition and Interim Application stand disposed of accordingly;
- (vi) In the event the order of this Court is not complied, trial Court shall take appropriate steps towards execution of this order expeditiously.

**(PRAKASH D. NAIK, J.)**