

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

CRIMINAL WRIT PETITION NO.3625 OF 2021

Asim Liyaquatali Sayyad

.... Petitioner

Versus

Sara Asim Sayyad and ors

.... Respondents

Mr.Sumant Deshpande i/b. Jameer Inamdar for the Petitioner.

Smt. Sharmila S. Kaushik , APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE : 11th FEBRUARY, 2022

(Through Video Conferencing)

P.C. :

1. By this Petition, the Petitioner has challenged the order dated 18th June, 2016 passed by the Judge, Family Court No.2, Pune below Exh.-1 in P.E. No.38 of 2015. By that order, the Petitioner was directed to pay Rs.10,000/- to the Respondent-wife and Rs.5,000/- for their daughter.

2. Learned counsel for the Petitioner submitted that the Respondent herein i.e. wife had left the company of the Petitioner-husband at her own wish without any reason. He submitted that therefore she is not entitled for getting an ad-interim maintenance in accordance with Section 125(4) of the Criminal Procedure Code, 1973. He submitted that he is challenging the part of the order granting

interim maintenance to the Respondent-wife. He further submitted that even after passing of the order, the Respondent-wife co-habitted with the Petitioner-husband for a period between 24th March, 2017 to 25th September, 2018. He further submitted that after that the Petitioner had given divorce to the wife as per the Muslim Law, and therefore, this subsequent development is important.

3. I have considered these submissions. The impugned order was passed on 18th June, 2016. When that order was passed, the learned counsel for the Petitioner-husband as well as the learned counsel for the Respondent-wife herein, were present before the Family Court. The Court has observed that the Application for interim maintenance was pending since March, 2015 for more than one year. Therefore, it was taken up for passing interim order. The learned counsel for the husband was unable to tell the income of the husband, and therefore, the learned Judge believed the version of the wife that her husband was earning Rs.40,000/- from salary, Rs.20,000/- from rent and also Rs.10,000/- from rent. Taking into account, these amounts, the learned Judge has directed the husband to pay an ad-hoc interim maintenance of Rs.10,000/- to the wife and Rs.5,000/- for the daughter. The said order was to take effect from the date of Application. It was specifically observed that it was an ad-hoc interim order and

would be reviewed after a detailed hearing.

4. Therefore, if there was any subsequent development as claimed by the learned counsel for the Petitioner-husband, it was always open for the Petitioner to approach the Court. The Court has clearly observed that it was only an ad-hoc interim order. It was open for the Petitioner husband to approach the same Court for a detailed hearing as mentioned in the order. The Petitioner has unnecessarily rushed to the High Court challenging that particular order. As far as, the issue raised whether the Respondent-wife was justified in not residing with the Petitioner-husband is the subject matter which the Family Court will have to decide.

5. I see no reason to interfere with the impugned order as the interim Application itself was pending since long time and the impugned order was passed in the year 2016. Therefore, it is better if the main proceeding itself is disposed by the Family Court as early as possible. No case for interference in the impugned order is made out.

6. The Writ Petition is accordingly disposed of.

(SARANG V. KOTWAL, J.)