

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

WRIT PETITION NO.9732 OF 2021

Krishna H. Gowda

.. Petitioner

Vs.

D. C. Shilpa

.. Respondent

...

Mr.Pankaj Pandey a/w Smit Kirti Nagda for Petitioner.
None for Respondent.

...

**CORAM : SARANG V. KOTWAL
DATE : 07TH JANUARY, 2022
(Through Video Conferencing)**

PC.

1. The petitioner is challenging the order dated 12th July 2019 passed below Exh-6 in Interim Application No.121 of 2018 in Petition No. C-46 of 2018 pending before the Family Court No.6, Bandra, Mumbai.

2. The main petition for maintenance is filed by the respondent-wife for herself and her daughter Khushi. She was married to the petitioner on 18th May 2008. According to her, since inception there was ill-treatment to her by respondent and his family members. There was also demand for dowry and therefore, the respondent was compelled to reside at her

parents' house. She moved an application for restitution of conjugal rights which was allowed. The petitioner agreed for cohabitation in execution of that order, but after some days he totally neglected the respondent. According to her, she as well as her daughter have no source of income. According to her the petitioner was working as Executive Manager in Jivox Overseas Consultants and his yearly income is around Rs.7,00,00,000/- . She has also claimed Rs. 50,000/- per month for herself and Rs. 20,000/- per month for her daughter.

3. The respondent had filed Interim Application, which was decided on 12th July 2019 by the Trial Judge directing the petitioner to pay Rs. 20,000/- per month to the respondent and Rs. 10,000/- per month to daughter Khushi towards interim maintenance from the date of the application i.e. from 27th April 2018 till disposal of the main petition.

4. Heard Mr. Pankaj Pandey, learned counsel for the petitioner.

5. Learned counsel for the petitioner submitted that the petitioner is not earning that much amount as is mentioned in the interim application. In support of his contention he tried to rely on the income tax return annexed to the petition.

6. I have perused the impugned order. The order records that

though the petitioner had appeared in the matter of interim maintenance, he had failed to file his say.

7. Considering the averments made before the trial Court and also taking into account absence of defence put-forth by the petitioner herein, learned Judge by referring to Section 106 of the Evidence Act, drew adverse inference. However, the amount of maintenance, as claimed by respondent, was not granted in totality. The petitioner had not contested that the application at all. Learned counsel for the petitioner submitted that because of his mother's illness, the petitioner could not contest the interim application. The petitioner could have taken this ground before the trial Court and sought adjournment, which was also not done. The contention of the petitioner's counsel that he was not earning, as claimed, cannot be accepted at this stage in the absence of such defence having been taken by the petitioner before the trial Court. There is no infirmity in the impugned order. Therefore, I am not inclined to entertain this writ petition. The writ petition is dismissed.

PRAVIN
DASHARATH
PANDIT

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Date: 2022.01.11
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(SARANG V. KOTWAL J.)