

Ghuge

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

WRIT PETITION NO. 4075 OF 2022

Subhash Mahesh Sharma ... Petitioner
V/s.
State of Maharashtra and Anr. ... Respondents

**WITH
WRIT PETITION NO. 3901 OF 2019
AND
WRIT PETITION NO.3435 OF 2021**

Mr. A.M. Saraogi for the petitioner.
Mr. A.R. Patil, APP for respondent no.1/State.
Ms. Krupali H. Rajani for respondent no.2.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 5, 2022

P.C.:

1. The order impugned is dated 6th October 2022 directing the petitioner to pay due and payable amount within one (1) month to the wife. It is stated in the order that in case the opponent fails to pay the interim amount of maintenance, then the distress warrant would be issued.
2. Learned advocate for the applicant has placed on record a chart to show that he has deposited substantial amount and, according to him, the amount deposited by the petitioner exceeds the dues towards maintenance as on today. Considering the order dated 8th July 2019 granting stay to the interim order of

maintenance, subject to deposit of one-fourth ($\frac{1}{4}$) of arrears, according to him, first amount of arrears was paid and, therefore, the stay shall operate from 11th October 2019. According to him, therefore, the liability from 11th October 2019 would be to pay maintenance at Rs.25,000/- (Rupees Twenty Five Thousand Only) per month.

3. The order dated 8th July 2019 reads as under :

“Perused application which is suggested by an affidavit. Heard. The effect, operation and execution of the order is hereby stayed on condition to deposit 1.4th of the arrears of the maintenance amount till further order.”

Reading of the order makes it clear that there is no time-limit prescribed to deposit one-fourth ($\frac{1}{4}$) of the arrears and since when the operation of the order shall stands stayed.

4. In that view of the matter, during the pendency of the appeal the order to deposit one-fourth ($\frac{1}{4}$) of arrears, the order of directing payment of interim maintenance is stayed.

- a) In that view of the matter, interest of justice would be served if the learned Sessions Judge is directed to decide Appeal No.282 of 2018 within six (6) weeks from the date of appearance of the parties;
- b) The parties shall appear before the Learned Sessions Judge Thane on 15th December 2022;
- c) The Learned Sessions Judge thereafter fix the date of hearing of the appeals as per his convenience;

d) The parties shall complete their pleadings within Two (2) weeks from the date of appearance;

e) The respondent No.2 is entitle to withdraw the amount lying with this Court along with accrued interest;

5. In view of the passing of the aforesaid order, the parties jointly stated that other writ petitions have been rendered infructuous and nothing remains to be adjudicated in these writ petitions. Therefore, Writ Petition No.3901 of 2019 and Writ Petition No.3435 of 2021 are disposed off.

6. All contentions of both sides are kept open to be agitated before the appropriate Court in appropriate proceedings.

7. Writ Petition No. 4075 of 2022 is disposed of in above terms. No costs.

(AMIT BORKAR, J.)