

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Writ Petition No.436 of 2022

Rajnish s/o Rajendrapal Naidu

vs.

Neha w/o Rajnish Naidu (Joshi) & another

*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. Anurag Gharote, Advocate for the Petitioner.

CORAM : **VINAY JOSHI, J.**

DATE : **5th JULY, 2022.**

Heard.

02] The petitioner/husband is the non-applicant in the proceedings filed by respondent No.1/wife claiming maintenance in terms of Section 125 of the Code of Criminal Procedure. The only grievance put by the petitioner/husband is that though he was allowed to conduct the cross-examination of the non-applicant/wife, however, the trial Court put a restrain that the cross-examination shall be completed on next date of the proceedings that too within one session of two hours.

03] The learned Counsel appearing for the petitioner would submit that already his defence is struck off and, therefore, cross-examination is the only weapon for him to bring the truth as well as put his defence. It is submitted that the non-applicant/wife has produced thousands of documents in the proceedings and, therefore, it is incumbent on him to thoroughly cross-examine the non-applicant on each and every document.

04] As a matter of fact, as on date, the petitioner has been permitted to cross-examine with a rider as aforesaid mentioned. In other words, there is no denial for exercising right of cross-examination. In the circumstances, let the petitioner shall cross-examine the non-applicant/wife for one session of two hours as stated and thereafter, if anything remains, he shall seek further time. The trial Court is always at liberty to restrict the cross-examination subject to the relevancy. Having regard to the above facts, I do not deem it necessary to issue notice to other side as at this moment, this Court is not passing any adverse order against the non-applicant/wife. The petitioner is in fact claiming relief in anticipation that he may not conclude cross-examination within the scheduled time. Already, the matter is expedited by the Supreme Court and by any means, the proceedings has to be expedited.

05] In view of the above, the impugned order dated 30/06/2022 passed on Exh.438 is hereby quashed and set aside. The trial Court shall permit the petitioner to cross-examine on assigned date for one session. The petitioner shall endeavour to conclude the cross-examination. If the cross-examination is not completed on scheduled date, he shall seek permission afresh of the learned Judge to conduct further cross-examination. The learned Trial Judge, on factual satisfaction, in his discretion pass suitable order. In case the trial Court declines further cross-examination, the petitioner is at liberty to approach this Court. The petition stands disposed of in the above terms.

Signed by: SANDESH DAULATRAO
WAGHMARE
Private Secretary to the Hon'ble Judge
Signing Date: 06.07.2022 17:43

JUDGE