

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

CRIMINAL WRIT PETITION NO. 609/2022

(Mahendra S/o Deoraoji Jaunjal Vs. Vaishali W/o Mahendra Jaunjal & anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. A. Biranware, Advocate for petitioner.
Mr. R. Kadu, Advocate for respondent No.1.

CORAM : VINAY JOSHI, J.
DATED : 16/09/2022.

Heard.

2. The petitioner/husband has raised challenge to the order dated 21.05.2019 passed by the Magistrate in the proceeding under the Protection of Women from Domestic Violence Act ('D.V. Act'), by which the learned Magistrate has granted interim maintenance vide order dated 21.05.2019. The second challenge is to the order dated 16.10.2019, by which the Civil Judge, Senior Division has granted interim maintenance in terms of Section 24 of the Hindu Marriage Act in HMP No. 169/2019.

3. The learned counsel appearing for the respondent No.2 wife has suo motu appeared and brought to the notice that so far as the first challenge to the interim maintenance order is concerned, already the same petitioner has filed criminal application (APL) No. 1329/2019 in this Court, which was heard and dismissed on merits by this Court vide

order dated 02.03.2021. As regards to the second challenge, (obviously which cannot be subject matter of criminal writ petition) the petitioner has already challenged the same before the District Court by filing Miscellaneous Civil Appeal and the same is pending. The copy of the judgment of this Court dated 02.03.2021 and a copy of delay condonation application No. 33/2019 along with Miscellaneous Civil Appeal challenging the interim maintenance order in HMP proceeding have been tendered. Apparently, the petitioner-husband has suppressed from this Court that the first prayer which he is seeking, was already challenged to this Court, in which he became unsuccessful. For second prayer, he has already filed Miscellaneous Civil Appeal along with delay condonation application in the Court of competent jurisdiction which is informed to be pending.

4. It emerges a serious affair on the part of the petitioner who is apparently trying to mislead the Court to obtain the orders. This Court presume and suppose that the learned counsel for the petitioner was unaware about the mischievousness of the petitioner. However, it is his duty to verify the factual aspect and endeavour to assist the Court properly. At this juncture, the learned counsel for the petitioner realizing the facts, requested for withdrawal of the petition. Since the petition lacks bonafide as well as endeavoured to mislead the Court, he has to pay cost for his dishonesty.

5. Petition stands disposed of as withdrawn. The petitioner is directed to pay cost of Rs. 20,000/- to the High Court Legal Services Sub Committee, Nagpur. The cost amount shall be deposited within one week from today.

6. Stand over after one week for compliance.

(VINAY JOSHI, J.)

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