

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1225 OF 2022

Namdeo Karbhari Ghandat
and others

.. Petitioners

Versus

Manisha Namdev Ghandat and others

.. Respondents

Mr. Dattatraya R. Jayabhar, Advocate for the Petitioners.

Mr. Yogesh S. Jadhav, Advocate for Respondent No. 1.

Smt. D. S. Jape, APP for Respondent No. 3.

CORAM : KISHORE C. SANT, J.

DATED : 24th MARCH, 2023.

P. C. :-

. Heard learned advocates for both the parties.

2. This writ petition is filed challenging an order dated 20.07.2022 passed by the learned Additional Sessions Judge, Ahmednagar on an application below Exh. 5 in Criminal Appeal No. 92/2021. By way of impugned order, the learned Appellate Court has partly allowed the application below Exh. 5 subject to condition of depositing amount of Rs. 5,00,000/- (Rs. Five Lakh only) of arrears and to continue to pay Rs. 5,000/- (Rs. Five Thousand only) per month regularly till the appeal period.

3. Learned advocate for the petitioners submits that, as on the date of passing of order, the amount of arrears was to the tune of Rs. 5,00,000/- (Rs. Five Lakh only) and out of the same by October 2022 he had deposited Rs. 2,50,000/- (Rs. Two Lakh Fifty Thousand only) in two installments. He submits that, in fact, relationship between the parties itself is doubted. In the civil proceeding there is clear finding recorded by the Civil Court that the respondent-wife has failed to prove the relationship of husband and wife. He further submits that, even son of respondent is born out of her first marriage and that is accepted. Thus, she would not be entitled to claim maintenance from the petitioner-husband.

4. Considering this position, this Court finds that, this petition can be disposed off by directing the petitioner-husband to continue to deposit Rs. 3,000/- (Rs. Three Thousand only) per month and in addition to amount already paid, he shall deposit Rs. 50,000/- (Rs. Fifty Thousand only) more. Though it is opposed by the learned advocate appointed for respondents, this Court finds that, with this arrangement the appeal can be directed to be decided within a period of six (06) months from today. Hence, the following order.

5. The writ petition is partly allowed.

6. The petitioner to deposit Rs. 50,000/- (Rs. Fifty Thousand only) in the Court of learned Sessions Judge, Ahmednagar where Criminal Appeal No. 92/2021 is pending and to continue to deposit Rs. 3,000/- (Rs. Three Thousand only) per month.
7. The learned Additional Sessions Judge, Ahmednagar is requested to dispose off Criminal Appeal No. 92/2021 as early as possible and preferably within a period of six (06) months from today.
8. Learned advocate for respondent No. 1 is appointed through legal aid. His fees is quantified to Rs. 7,500/- (Rs. Seven Thousand Five Hundred only) to be paid by the legal aid.
9. If any application for execution is filed by the wife, the same shall also remained stayed till the decision of the appeal.
10. The criminal writ petition stands disposed off.
11. Interim applications, if any, shall also stand disposed off.

(KISHORE C. SANT, J.)

PS.B.