

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1435 OF 2022
WITH APPLN/3444/2022 IN WP/1435/2022

UNMESH PANDHARINATH JONDHALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Naseem R. Shaikh
APP for Respondent No.1/State : Smt. D. S. Jape
Advocate for Respondent No.2 & 3 : Mr.P. P. Dawalkar Parikshit P. (appointed)

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CORAM : KISHORE C. SANT, J.

DATE : 24th JANUARY 2023.

Per Court :

Heard both the sides.

1. Though normally this Court would not have entertained the order directing to pay interim maintenance, however looking to the fact that no sufficient opportunity was granted to the petitioner/husband to file his say before passing the impugned order, this Court feels it necessary to look into the order.
2. The petitioner has challenged the order dated 28.06.2022 passed

by the learned Family Court, Parbhani directing him to pay Rs.5000/- per month to petitioner no.1 and 2 i.e. his children. The application was filed at the instance of his wife. It is specific submission that when the children are staying with him only by misleading the Court, wife had filed the application, on which the impugned order is passed. From roznama, he submits that though the husband was not served, the order is passed. Since the question of custody, whether it is with husband or wife is disputed question and in view of the submission and also for the fact that there is no proper service on the husband before passing the order. This Court finds that opportunity needs to be given to the petitioner/husband to file his say in the interim application below Exhibit No.6 in P. E. No.2/2021 pending before the learned Judge, Family Court, Parbhani. Thus, the impugned order dated 28.06.2022 is quashed and set aside.

3. It is reported that the next date in the trial Court is 17.02.2023. Therefore, the parties are directed to appear before the learned Family Court, Parbhani by making application for early hearing. The learned Judge, thereupon shall pass fresh order by considering

application Exhibit-6 preferably within three months from today.

4. It is open for the parties to explore the possibility of settlement by approaching the mediation.

5. With this, the Writ Petition is disposed off.

[KISHORE C. SANT, J.]

Najeeb.