

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.10 OF 2023

EMILIO CARLOS ANTONIO JUDE THADEUS
COSTA MARTINS

... PETITIONER

Versus

MARIA DO CARMO RIBEIRO DE SANTANA
COSTA MARTINS AND 2 ORS

... RESPONDENTS

Mr. B. Samant, Advocate for the Petitioner.

Mr. G. Nagvenkar, Additional Public Prosecutor for the
Respondent No.1-State.

Mr. A. R. Kantak, Advocate with Mr. Raunak Kantak, Advocate
for the Respondent No.2.

CORAM:- M. S. KARNIK, J.

DATED :- 24th March, 2023

ORAL ORDER

Heard learned Counsel for the Applicant and the learned
Counsel for the Respondents.

2. The impugned order arises out of a Matrimonial proceeding.
An order of maintenance was made in favour of the Respondent
No.1-wife and Respondent No.2-daughter of the Petitioner. The
order under challenge is dated 30.11.2022 issuing a warrant of
imprisonment against the Petitioner for eleven months for
recovery of the amount of Rs.2,20,000/-. The amount of

Rs.2,20,000/- in terms of the Order passed by the Trial Court which was arrears of maintenance till then has already been deposited in this Court.

3. I have gone through the impugned Order. Learned Counsel for the Petitioner vehemently urged that the amount claimed by the Respondent No.1 towards arrears of maintenance is much more than what was already paid over to the Respondent No.1. It is submitted that the maintenance of arrears which the Respondent No.1 claims, has to be adjusted from the amount which has already been over paid to the Respondent No.1.

4. I find that there have been previous rounds of litigation between the parties right upto this Court urging the very same plea as raised in this Petition.

5. At Paragraphs 7 and 8 of the Order of the Trial Court, these facts are noted. The contention regarding over payment of Rs.2,20,000/- has already been considered and decided by this Court in a previous round of litigation. This is only another desperate attempt on the part of the Petitioner to some how avoid the payment of arrears of maintenance. I do not find substance in the contentions raised by learned Counsel for the Petitioner who tried his best to persuade me to hold in favour of the Petitioner.

6. Having regard to the well considered Order passed by the Trial Court, though I am not inclined to interfere with the impugned Order. Considering that now the amount of Rs.2,20,000/- has been deposited in this Court, in the interest of justice, the warrant of imprisonment against the Respondent is set aside. The warrant not to be executed.

7. The Respondent Nos. 1 and 2 are permitted to withdraw the amount of Rs.2,20,000/- which has been deposited in this Court. The Registrar (Judicial) is directed to pay the said amount with accrued interest, if any, to the Respondent Nos. 1 and 2 in equal shares..

8. Subject to the above observations, Petition is rejected.

M. S. KARNIK, J.

ANDREZA
PEREIRA

 Digitally signed by ANDREZA
PEREIRA
Date: 2023.03.28 13:34:37 +05'30'