

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1044 of 2023
IN
CRIMINAL WRIT PETITION NO. 2343 OF 2022

Rahul Ashok Yadav .. Applicant
Versus
Prajakta Rahul Yadav @ Prajakta .. Respondents
Suryakant Hire and Anr

...

Mr. Sashikant .D. Chandak a/w Kanchan Chandak for the applicant.

Ms. Pallavi Dabholkar, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 24th MARCH 2023

P.C:-

1 In the criminal writ petition filed by the petitioner husband, an interim application is taken out, seeking the following direction:

a “That pending the hearing and final disposal of this petition the impugned order dated 03/11/2018 passed on Exhibit 28 against the Applicant being the attachment order of 12,000/- on the monthly salary of the Applicant No.1, Rahul Ashok Yadav be stayed.

b That the order dated 3/11/2018 passed on Exhibit 28 against the Applicant being the

attachment order of 12,000/- on the monthly salary of the Applicant No.1, Rahul Ashok Yadav be quashed and set aside.”

2 Heard the learned counsel for the petitioner, who would demonstrate before me that with effect from 14/02/2019, an amount of Rs. 12,000/- came to be deducted from his salary and the total amount deducted is Rs. 4,46,000/- and according to him the amount payable towards arrears as well as amount of maintenance payable to the wife is to the tune of Rs. 3,80,000/-. Therefore according to him there is excess deduction of Rs. 66,000/-.

3 The learned counsel would submit that in these circumstances, he moved an application vide exhibit 44 (d) before the Judicial Magistrate, Nashik Road, Nashik in criminal case no. 508 of 2016, where he sought a specific relief of staying the deduction from his salary as excess amount has been deducted and the deduction is causing great prejudice to him.

 The application being filed on 1/02/2022 is still kept pending.

4 In terms of annexure B and if it is the correct and true version of the deduction, there appear to be an excess deduction. Since the order for attaching the salary was passed specifically as there were arrears of maintenance, if the applicant is regular in paying the amount of maintenance, the attachment on his salary account need to be lifted. However this factual

aspect need to be ascertain by the Magistrate.

5 The application filed by the applicant is kept pending for more than a year, which must be taken up for expeditious hearing by giving adequate notice to the respondent wife, and if she fails to remain present, the Court shall proceed to take on record the bank statement or any other supporting document establishing the deduction and pass appropriate order. It is informed that the proceedings before the learned Court are now scheduled on 28/03/2023.

It is therefore directed that trial court shall take up the application at exhibit 44-D for hearing and decide the same forthwith and in any case within a period of 4 weeks from 28/03/2023.

Interim Application no.1044 of 2023 is disposed off.

(SMT. BHARATI DANGRE, J.)