

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Writ Petition No.3827 of 2018

Kashish Virendrakumar Jain ... Petitioner.

Versus

1. Mrs Anuj Kashish Jain
2. The State of Maharashtra ... Respondent.

Mr Vaibhav Birmole, Advocate i/by Mr Yusuf R. Singh for
petitioner.

Mr HJ Dedhia, APP for State/Respondent-2.

Coram : R.N.Laddha, J.

Date : 5 October 2023.

P.C.:

The petitioner, Kashish Jain, filed a petition against the order dated 25.7.2018, passed by the learned Additional Sessions Judge, Pune, in Criminal Miscellaneous Application No.259 of 2017. The order refused to initiate the proceedings under Section 340 of the Code of Criminal Procedure, 1973.

2. In Other Misc.Criminal Application No.305 of 2015, the learned trial Court directed the petitioner, who is the husband of

the first respondent, to pay interim maintenance of Rs.15,000/- per month to the applicant/first respondent and their daughter Anvesha by an order dated 6.7.2015. The petitioner challenged this order of interim maintenance by way of appeal bearing Criminal Appeal No.452 of 2015 before the Sessions Court, contending that the respondent was employed and that she had filed a false case against him for getting maintenance only to harass him.

3. The respondent/wife in Criminal Appeal No.452 of 2015 falsely claimed that she had no source of income and denied being gainfully employed, during the hearing. This led to the dismissal of the appeal due to suppression of facts and falsity in her statement.

4. After examining the records, it transpires that the learned trial Court granted the respondent/wife's prayer for interim maintenance. The petitioner/husband challenged this order in Criminal Appeal No.452 of 2015, however, the appeal was dismissed. In the appeal, the respondent/wife did not file any reply. Other Misc.Criminal Application No.305 of 2015 is still awaiting final adjudication. Criminal Appeal No.452 of 2015 was decided on 20.8.2016, and the respondent/wife's evidence in Other Misc.Criminal Application No.305 of 2015 was recorded on

15.01.2017, after the appeal was decided. During the trial, the petitioner has an opportunity to prove that the respondent/wife is gainfully employed and to refute her claim.

5. Moreover, it is seen from the records that the petitioner/husband had filed an application (Exh.116) in Other Misc.Criminal Application No.305 of 2015 under Section 340 CrPC, which was rejected on its own merits on 8.11.2017. However, the petitioner/husband has not challenged this decision.

6. Even otherwise, it is a settled principle in law that this provision cannot be used to satisfy a private grudge of the litigant.

7. For the foregoing reasons there is no merit in the petition. The petition stands dismissed accordingly.

R.N.Laddha, J.