



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

CRIMINAL WRIT PETITION NO. 623 OF 2024

Sou. Jayashree w/o Ramdas Kharmale,
Age: 43 years, Occu: Nil.
R/o. Plot No. 301,
Platinum Park Residency,
Burhanagar, Tq. & Dist. Ahmednagar ..

Petitioner
(Original Applicant)

Versus

Ramdias s/o Muktaji Kharmale,
Age: 50 years, Occu: Service,
R/o. Adarsh Madhyamik Vidyalaya,
Mumbra, Tq. Kalyan, Dist. Thane. ..

Respondent
(Original Non-Applicant)

Mr. Rajaram B. Bhise, Advocate for the Petitioner;
Mr. D. L. Palod and Mr. L. B. Palod, Advocates for Respondent

CORAM : S. G. MEHARE, J.

DATE : 06-08-2024

PER COURT :-

1. Heard the learned counsel for the petitioner and the learned counsel for the respondent.
2. The petitioner has impugned the order of learned Judge, Family Court, Ahmednagar, below Exhibit-38 in P.E.R. No.05 of 2023, dated 13.02.2024.
3. The original applicant had moved application for recovery of arrears of the maintenance. However, there were no details of the arrears of the maintenance. Therefore, the Court directed the applicant to submit the details.

4. Learned counsel for the petitioner submits that the details were furnished to the Court. However, the Court did not pay attention. He has referred to the application for issuing the arrest warrant for arrears of maintenance in which he has claimed that the non-applicant was in arrears of interim maintenance of Rs.6,14,000/-. Further, it has been submitted that on 06.02.2024, the respondent was in arrears of Rs.5,89,000/-. Hence, action may be taken against him under Section 125(3) of the Code of Criminal Procedure (for short, "Cr.P.C.").

5. The learned counsel for the respondent submits that it was not a proceeding under Section 125(3) of the Cr.P.C.. A proceeding before the learned Judge, Family Court, is for the execution of the orders passed under Section 128 of the Cr.P.C. He submits that he has submitted details before the Judge, Family Court. However, the learned counsel for the petitioner took objection.

6. This Court believes that the dispute should be addressed before the Executing Court.

7. To exercise power under Section 125(3) of the Cr.P.C., there shall be details of the defaults. That Section provides for the action against defaulter. After proceeding has been decided on merit, the person entitled for an order to pay maintenance, has to take recourse to Section 128 of the Cr.P.C. The action under Section 125(3) of the Cr.P.C. is stringent. There must be detail

information of the defaults committed by the person against whom the order is passed. In the absence of details, the Court should not pass mechanical order for issuing warrant for breach of the order. Therefore, the Court has correctly directed the applicant to furnish details. The order is free from infirmity and illegality.

8. Now, the learned counsel for the petitioner submits that he has furnished the details as per the impugned order to the trial Court. In result, this petition became *infructuous*.

9. For both above reasons, the writ petition stands dismissed.

(S. G. MEHARE)
JUDGE

rrd