



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

CRIMINAL WRIT PETITION NO. 1482 OF 2024

SHIVAJI RAM LAHANE
VERSUS
SANGITA W/O SHIVAJI LAHANE AND ANOTHER

...
Advocate for the Petitioner : Mr. Rahul P. Dhase

CORAM : S. G. MEHARE, J.

DATE : 30-08-2024

PER COURT :-

1. Heard the learned counsel for the petitioner.
2. The respondent/wife had filed a recovery proceeding under Section 128 of the Code of Criminal Procedure. The summons was issued to the petitioner. The petitioner did not attend the proceeding. The Executing Court issued a recovery warrant against the accused and a show-cause notice to the concerned Police Station.
3. Reading the order of the learned Judicial Magistrate First Class, Renapur, passed below Exhibit-26 in Criminal M.A.No.2 of 2017 dated 11.04.2022, it cannot be said that it was a non-bailable warrant.
4. The petitioner came up with a case that the dispute between husband and wife was amicably settled and some property was given to her in partition. The learned Additional Sessions Judge, Latur, dismissed the revision application holding that it was an interlocutory order. He also held that there is no any manifest error of law or procedure in passing the order. Hence, the impugned order appears to be correct, legal and proper. Against that order, the petitioner is before this Court.

5. It is apparent that the impugned order does not harm the petitioner. He could appear before the Executing Court and submit his case. Again, he preferred a revision directly to the first Appellate Court of which and bringing the facts how that order is obtained by suppressing the facts.

6. Still the Court is of the view that the applicant may appear before the trial Court because the impugned order does not directly affect his interests. Unless the order of maintenance is cancelled under Section 127 of the Code of Criminal Procedure, it remains in force. However, it was settlement. This fact be brought to the notice of the Executing Court and other side may be heard.

7. It is a matter of fact finding. The this Court has no power to record the fact finding. There is no force in the petition. Hence, the petition stands dismissed at the admission stage.

8. However, liberty granted to the petitioner to approach before the concerned trial Court and submits his case and requests the Court to recall the order.

(S. G. MEHARE)
JUDGE

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