

Esha

IN THE HIGH COURT OF BOMBAY AT GOA

**CRIMINAL WRIT PETITION NO. 2 OF 2022
WITH
CRIMINAL MISC. APPLICATION NO. 5 OF 2022
IN
CRIMINAL WRIT PETITION NO. 2 OF 2022**

VIKAS VATS ... PETITIONER
VS
DR. DINESH KUMARI SHARMA
NATURAL GUARDIAN FOR RES.
NO. 2 AND ANR. ... RESPONDENTS

Mr. Sahil Sardessai, Advocate for the Petitioner.

Mr. D. Lawande with Mr. Pradosh Dangui and Ms. Akshaya
Joglekar, Advocates for Respondent No. 1.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 2nd APRIL 2024

ORAL ORDER:

1. Heard Mr. Sardessai for the Petitioner and Mr. Lawande for Respondent No. 1.
2. The present Petition is filed challenging the interim order passed by the learned Magistrate under Section 125 of Cr.P.C. and thereafter, confirmed by the first Appellate Court.
3. Mr. Sardessai points out that the impugned order is passed without considering the affidavit of assets and liabilities filed by

Respondent No. 1-Wife. He submits that the Petitioner though a professional/dentist, is earning only Rs.30,000/- per month depending upon the patients. He submits that Respondent No. 1-Wife is also working as a dentist, however, the Petitioner is ready and willing to contribute to the maintenance awarded for the child.

4. Mr. Lawande would submit that the child needs special care and protection and since Respondent No. 1-Wife is working as a dentist, she has to engage the services of a housemaid to look after the child. This fact is not disputed by the Petitioner.

5. The Petition could be disposed of by directing the learned Magistrate to decide the proceedings filed before it under Section 125 of Cr.P.C. in a time-bound manner since the challenge in the present Petition is to the interim orders.

6. It is reported that the matter is fixed for filing an affidavit of assets and liabilities as held by the Apex Court in the case of **Aditi alias Mithi Vs. Jitesh Sharma** [Criminal Appeal No. 3446 of 2023 decided on 06.11.2023].

7. Learned Counsel for the Petitioner submits that the Petitioner is ready and willing to pay regularly the maintenance

awarded by the Trial Court and confirmed by the Appellate Court including arrears, till the disposal of the main proceedings.

8. Mr. Lawande submits that Respondent No. 1-Wife will place on record the affidavit disclosing assets and liabilities as held by the Apex Court in the case of **Aditi alias Mithi** (supra) within 15 days from today.

9. In view of the above circumstances, the learned Trial Court is directed to decide the maintenance proceedings on its own merits within a period of three months from today. Till that time, the Petitioner shall deposit the monthly maintenance awarded to the child together with arrears.

10. It is made clear that this Court has not gone into the merits of the present Petition. The learned Magistrate shall decide the said proceedings on its own merits. Parties shall cooperate with the concerned Magistrate in adhering to the directions given by this Court without asking for further adjournment.

11. The Petition is accordingly disposed of in the above terms. Criminal Miscellaneous Application No. 5 of 2022 stands disposed of as the same does not survive.

12. Parties to act on an authenticated copy of this Order.

BHARAT P. DESHPANDE, J.

ESHA SAINATH
VAIGANKAR

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