



Esha

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 42 OF 2024

PRAKASH CHINTU MATONKAR ... PETITIONER

Versus

PRATITA MATONKAR & ANR. ... RESPONDENTS

Mr. Sahil Sardesai, Advocate under the Legal Aid Scheme
for the Petitioner.

Mr. Ivan Santimano, Advocate for Respondent No. 1.

Mr. Nikhil Vaze, Additional Public Prosecutor for
Respondent No. 2.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 1st JULY 2024

ORAL ORDER:

1. Heard Mr. Sardesai appearing for the Petitioner, who is
present in person and Mr. Santimano for Respondent No. 1.

2. The orders challenged in the present Petition is dated
17.10.2018 and subsequently on 06.11.2017 of the Courts below as
well as the order of issuance of non bailable warrant since the

Petitioner failed to deposit the maintenance granted by the Trial Court.

3. The matter was referred to mediation, however, both the Counsel for the parties submit that the mediation was not successful.

4. The Petitioner is the owner of a villa, flat and three shops as contended by Respondent No. 1. Mr. Sardesai admits that the Petitioner is the owner of a villa as well as a flat, however, he submits that there is only one shop in the name of the Petitioner, which is divided into three parts.

5. The fact remains that in the portion of the said shop, the Petitioner is carrying on business of grocery, however, he submits that he is not getting income out of the said shop and accordingly, he is not even able to pay maintenance of Rs.5,000/- per month to Respondent No. 1.

6. Mr. Sardesai submits that the Petitioner is ready and willing to transfer one shop in the name of the Petitioner, however, such an attempt was unsuccessful as Respondent No. 1 claims that she is unable to carry on any business in the said shop and earn her

livelihood. At present, there are arrears of more than Rs.4 lakhs out of which one Rs.1 lakh was deposited in this Court. However, on 18.06.2024, this Court passed the following order:

“P.C.

1. Though this matter was directed to be taken up at the end of the board, when the matter was called out, Mr. Sardesai learned counsel appearing for the Petitioner is absent. His colleague now requests time to argue the matter till Monday i.e. on 24.06.2024.

2. It is pointed out that the present petition is filed challenging the maintenance amount granted to the wife and the arrears of maintenance is more than Rs.4,00,000/-(Rupees Four Lakhs only).

3. On 07.02.2024, the Petitioner agreed to deposit an amount of Rs.1,00,000/-(Rupees One Lakh only) within two weeks. He failed to deposit such amount and on 12.03.2024, it was claimed that the parties were trying to settle the matter.

4. Now it is mentioned that the settlement is not possible.

5. The adjournment is granted today subject to a deposit of Rs.1,00,000/-(Rupees One Lakh only) in this week so that the matter could be taken up for final disposal on Monday.

6. Stand over to 24.06.2024, high on board.”

7. The Petitioner was directed to deposit arrears of Rs.1 lakh within two weeks, however, till date, such amount has not been deposited.

8. Respondent No. 1 is the wife of the Petitioner who is at present around 54 years of age. The Petitioner is 73 years old and was earlier working abroad. The property owned by the Petitioner at present is in fact sufficient for the purpose of paying the monthly maintenance of Rs.5,000/- per month including the arrears. It is difficult to believe that the Petitioner is not earning any amount from his business of the grocery shop so as to pay Rs.5,000/- to Respondent No. 1 as maintenance.

9. Since the Petitioner has failed to obey the orders of this Court, so as to deposit part of the arrears, it is difficult for this Court to even entertain the Petition filed under Section 482 of Cr.P.C., which is an extraordinary jurisdiction. The record clearly goes to show that Respondent No. 1 has been without any maintenance since the time of passing of the order by the learned Magistrate i.e. from 2015, except an amount deposited with this Court on an earlier occasion. Even the execution proceedings filed by the wife are going on and in those proceedings, non bailable

warrant was issued against the Petitioner for not obeying the orders of maintenance.

10. Looking to the above fact, it is clear that the Petitioner is not only disobeying the orders of the Magistrate, however, he also failed to obey the orders of this Court and therefore, I do not see any reason to exercise the discretion under the extraordinary jurisdiction of this Court for the purpose of entertaining the Writ Petition. Although, efforts were made by this Court as well as by the learned Magistrate, however, it seems that the Petitioner is not ready even to pay the amount of Rs.5,000/- per month, which was granted as maintenance to the wife.

11. In such circumstances, this Court is not inclined to entertain the Petition filed by the Petitioner under Section 482 of Cr.P.C. Accordingly, the Petition stands dismissed. The concerned Executing Court shall take necessary steps for recovery of the arrears as well as the maintenance granted to the wife.

12. Proceedings closed.

BHARAT P. DESHPANDE, J.