

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 18 OF 2024

Ms. Caroline Collasso, Advocate for the Applicant.
Respondent present in person.

P.C.

2. The challenge in the present revision is to the order passed by the learned Additional Sessions Judge in Criminal Appeal No.122/2023 dated 29.05.2023 thereby affirming the order passed by the learned Magistrate granted interim maintenance.

specifically during Covid period and thereafter he started working again, however, his income was not such to pay the arrears or even the monthly maintenance.

4. Ms. Collaso now submits that the Applicant is now having a better job and he is trying to pay some amount of maintenance as per his financial capacity. She submits that subsequently, the Applicant has filed reply/affidavit before the Magistrate as well as before the learned Additional Sessions Judge, however, such documents and reply were not considered properly.

5. The Respondent who is in person submits that the arrears, the Applicant is required to deposit is now more than Rs.12,00,000/-(Rupees Twelve Lakhs only). She submits that the interim maintenance granted by the learned Magistrate is only for the maintenance of children. She submits that one child is suffering from cleft lip and require treatment. She further submits that the Applicant being father is not providing such maintenance amount as well as medical treatment.

6. The Applicant has challenged the interim order before the learned Sessions Court to confirm such interim order.

7. Admittedly, there are arrears of more than Rs.12,00,000/- (Rupees Twelve Lakhs only) as on date which the Applicant has failed to deposit, though it is claimed that he is paying some

amount, but not the amount which is granted by way of interim maintenance. The order impugned in the present matter is admittedly, an interim order and it is the contention of the learned counsel for the Applicant that reply/affidavit filed subsequently needs to be considered.

8. The Respondent submits that even an application for contempt/disobedience is pending before the learned Magistrate.

9. In view of the above facts and circumstances, the petition could be disposed of with liberty to the Applicant to approach the learned Magistrate for modification of the interim order by placing all the necessary documents.

10. Similarly, the Respondent shall pursue the proceedings filed for contempt/disobedience.

11. It is made clear that this Court has not gone into the merits of the orders passed below and at this stage, the Court is not inclined to interfere with the maintenance order or granting any stay. However, if any application for modification is filed by the Applicant, the same shall be disposed of along with the application for contempt/disobedience filed by the Respondent and within a period of one month and at the most by 15.06.2024.

12. It is also made clear that the Applicant shall show his bonafides and shall deposit atleast 25% of the arrears before the

learned magistrate.

13. It is made clear that the learned Magistrate shall decide the application for modification on its own merits and without influence of its own orders as well as observations of the learned Additional Sessions Judge in an appeal filed by the Applicant.

14. The learned Magistrate shall make an endeavour to dispose of such application for modification along with the application for disobedience as it has got a direct bearing on the order passed for interim maintenance.

15. Both the parties shall cooperate with the learned Magistrate in disposal of such proceedings.

16. In view of the above observations, revision petition stands disposed of. All contentions of all parties are kept open.

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

BHARAT P. DESHPANDE, J.