

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO. 180 OF 2017

Manisha Ghanshyam Keshwani ...Petitioner
Vs.
The State of Maharashtra & Anr. ...Respondents

Mr. Tejas Hilage for Petitioner appeared through VC
Ms. Tanaya Goswami, AGP for the Respondent-State.
Ms. Priyal Sarda, for Respondent No. 2.

CORAM : SARANG V. KOTWAL, J

DATED : 10TH JANUARY, 2024

P.C.:

1. The prayer in this Contempt Petition is for initiating contempt proceedings against the Respondent No. 2. The subject matter of this Petition is the order passed in Criminal Anticipatory Bail Application No. 1086 of 2012 on 12/12/2012. The said Application was filed by the Respondent No. 2 herein for protection u/s. 438 of Cr.P.C in respect of the complaint filed by the Petitioner herein u/s. 498A, 420, 504 and 506 of the IPC.

2. The Petitioner is the wife of the Respondent No. 2. During the pendency of the said Anticipatory Bail Application, the parties had filed Consent Terms. They were taken on record and marked "X" for identification. This Court (Coram - R. C. Chavan, J.)

observed that in view of this, custodial interrogation of the Applicant was not necessary and interim protection was granted to the Respondent No. 2 herein vide order dated 21/11/2012 was confirmed.

3. The consent terms mentions that the Respondent No. 2 herein (i.e. Applicant in ABA/1086/2012) had undertaken to this Court that he would invest Rs. 10 lacs in fix deposit in the name of their two minor daughters and in addition, he would deposit Rs. 5 lacs in the fix deposit in the joint name of the Petitioner and the Respondent No. 2 herein.

4. It is the case of the Petitioner that this undertaking was not honoured. Therefore, the Petitioner moved an Application for the cancellation of the Anticipatory Bail protection granted to the Respondent No. 2. The said Application was Criminal Application No. 72 of 2013 in Criminal Anticipatory Bail Application No. 1086 of 2012. This Court (Coram-Mrs. Mridula Bhatkar, J.) vide order dated 28/03/2014 refused to withdraw the protection of Anticipatory Bail granted to the Respondent No. 2 herein. The Court expressed displeasure about the conduct of the Respondent No. 2 herein but observed that on settled principles of law, bail could not be cancelled as this Court could not impose any

condition in respect of payment of maintenance, which is basically a jurisdiction of the Civil Court or the Court of Judicial Magistrate or the Family Court. The said order dated 28/03/2014 was challenged before the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No. 4679 of 2014. The Hon'ble Supreme Court dismissed the the said Special Leave Petition thereby upholding the order dated 28/03/2014. It was observed that the Family Court could impose the condition with regard to payment of maintenance to the wife and her daughter. However, the Petitioner has filed this Contempt Petition on the ground that the undertaking given by the Respondent No. 2 before this Court while arguing the Application for Anticipatory Bail was not honoured.

5. Learned Counsel for the Petitioner submitted that the maintenance granted by the Family Court is a separate matter and cancellation of Anticipatory Bail is also a separate matter. He has submitted that since the Respondent No. 2 herein has not honoured his undertaking, civil contempt is committed by him.

6. Learned Counsel for the Respondent No. 2 submitted that the subject matter, which was pending against the Respondent No. 2, resulted in the Trial, that Trial is also over and the Respondent No. 2 is already acquitted. Therefore, nothing really

survives. As far as Anticipatory Bail is concerned, the same is already decided. He further submitted that the Respondent No. 2 is already paying maintenance to his daughters as well as the Petitioner as directed by the learned JMFC, Kolhapur. He has relied on the order dated 28/03/2014 passed by this Court refusing to cancel the Anticipatory Bail granted to the Respondent No. 2 and also the order passed by the Hon'ble Supreme Court upholding the said order.

7. I have considered the submissions.

8. The Petitioner had made one attempt to cancel the protection of Anticipatory Bail granted to the Respondent No. 2. The said Application i.e. Criminal Application No. 72 of 2013 in Criminal Anticipatory Bail Application No. 1086 of 2012 was dismissed by this Court, as mentioned earlier. That order was upheld by the Hon'ble Supreme Court. Therefore, the question of honouring the undertaking was already considered by this Court. The order passed by this Court was upheld by the Hon'ble Supreme Court.

9. Therefore, I do not consider it appropriate to entertain this Contempt Petition. It is also important to note that the Trial in question has already resulted in acquittal of the Respondent No. 2.

As submitted by learned Counsel for the Respondent No. 2, the Respondent No. 2 is paying maintenance as directed by the JMFC, Kolhapur.

10. Taking overall view of the matter, I do not find any substance in this Petition. The Petition is accordingly dismissed.

(SARANG V. KOTWAL, J.)