

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 641 OF 2024

Asma Zafar Shaikh

...Petitioner

Versus

Zafar Adnan Shaikh & Ors

...Respondents

Mr Viraj Jain, with Sangita Choure, for the Petitioner.

Mr Shantanu M Sharma, for Respondent No. 1.

Mr SC Wakankar, for Respondent No. 2.

CORAM: ARIF S. DOCTOR, J

DATED: 9th December 2024

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PC:-

1. The Petitioner-Wife has filed the captioned Contempt Petition against Respondent No.1-Husband and Respondent No. 2 "the employer/manager" of "Tietovry Tech Services India Private Limited".

2. Mr Jain, Learned Counsel appearing on behalf of the Petitioner submits that the Respondents have committed contempt of an order dated 11th October 2017 passed by Metropolitan Magistrate, 57th Court, Kurla, Mumbai in Case No. 51/DV/2016, by and under which Respondent No. 1 was directed to make payment of interim maintenance to the Petitioner as follows.

- (a) Respondent is hereby directed to provide amount of Rs.7,000/- per month as maintenance to the Applicant from the date of filing of this Applicant.
- (b) Respondent is further directed to make arrangement of accommodation for Applicant or pay cost of accommodation at the rate of Rs.3,000/- per month from the date of the Application.
- (c) Respondent No. 1 is further directed to pay compensation of Rs. 25,000/- to applicant.

3. Mr Wakankar, Learned Counsel appearing on behalf of Respondent No. 2 raised a preliminary objection of maintainability of the Contempt Petition as against the “employer/manager” of “Tietovry Tech Services India Private Limited”. He submitted that the dispute in question was purely a matrimonial dispute between the Petitioner and Respondent No. 1-Husband, who was an employee of Respondent No.2 “employer/manager” of “Tietovry Tech Services India Private Limited”. However Respondent No. 2 has admittedly not a party to the proceedings in which the order of interim maintenance was passed.

4. When this Court put to Mr Jain the basis on which the employer was joined, he submitted that pursis had been filed before the Trial Court for attachment of the salary of Respondent No 1-Husband who was working in “Tietovry Tech Services India Private Limited”. It was thus he submitted that since despite the filing of the said pursis since no

amount from salary was paid by Respondent No. 2 to the Petitioner-Wife, the present Contempt Petition against Respondent No. 2 was filed.

5. The Court put to Mr Jain as to whether mere non-payment would amount to contempt and if there was any undertaking given of which Respondent No.1 was in breach of he submitted that there was no undertaking and the present Contempt Petition had been filed solely on the basis of non-payment of the interim maintenance. He was unable to, however, point out any judgment to show that mere non-payment and absent an undertaking would amount to contempt.

6. At this stage, Learned Counsel for Respondent No. 1-Husband submitted that there was an amount of Rs. 90,000/- due and payable as interim maintenance. He then undertook to clear the same within a period of two months from today.

7. Basis this undertaking, this thoroughly misconceived Contempt Petition an be dismissed. Hence, the Contempt Petition is dismissed and the undertaking given by Respondent No. 1-Husband to clear the interim maintenance within a period of two months from today is accepted.

(ARIF S. DOCTOR, J)