

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 572 OF 2025

Shreyas Shrikant Desai	...Petitioner
<i>Versus</i>	
State of Maharashtra & Mrs. Ashwini Shreyas Desai	...Respondents

Ms. Alpa Javeri, Advocate for Petitioner.
Mr. A.R. Metkari, APP for Respondent-State.
Ms. Priyanka Dubey a/w Ms. Megha Gupta, Ms. Prajnali Khemnar,
Mr. Krishna Shukla, Mr. Shirish Desai i/by Hedgehog and Fox LLP,
Advocate for the Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.
DATED : 2nd April 2025

P.C.:

1. Heard Ms. Javeri, learned Counsel for the Petitioner, Ms. Dubey, learned Counsel for the Respondent No.2 and learned APP for the State.

2. The challenge in this Writ Petition filed under Article 227 of the Constitution of India is to the Order dated 9th June 2023 passed by the learned Additional Sessions Judge, City Civil & Sessions Court, Greater Mumbai, by which the Miscellaneous

Application No.974 of 2023 filed in Criminal Appeal No.326 of 2023 has been rejected.

3. The challenge in the said Criminal Appeal No.326 of 2023 is to the Order dated 5th April 2023 of the learned Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai passed below Exhibit 6 in Criminal Case No.118/DV/2020. By the said Order dated 5th April 2023, the learned Metropolitan Magistrate has *inter alia* directed payment of Rs.30,000/- per month to the Applicant and Rs.30,000/- per month to the son as maintenance from the date of the Application.

4. The said Order is challenged by the present Petitioner i.e. the husband and his parents by filing Criminal Appeal No. 326 of 2023. The Miscellaneous Application No.974 of 2023 has been filed seeking interim relief of stay of the said Order, which has been rejected by the impugned Order.

5. Admittedly, as per the Order passed by the learned Metropolitan Magistrate, an arrears of maintenance are Rs.27,50,000/-. The Petitioner has not paid any maintenance

pursuant to the Order dated 5th April 2023 passed by the learned Metropolitan Magistrate, except an aggregate amount of Rs.3,50,000/- paid from time to time. Even by taking into consideration said payment, the arrears are Rs.27,50,000/-.

6. The learned Appellate Court while rejecting the said Miscellaneous Application No. 974 of 2023 has observed that the learned Advocate of the Petitioner submitted that the Petitioner is ready to deposit 50% of the amount of arrears of interim maintenance, which was at that particular time Rs.9,00,000/- subject to the condition that the wife should not be allowed to withdraw the said amount till final disposal of the Appeal. The learned Additional Sessions Judge, City Civil & Sessions Court, Greater Mumbai therefore recorded that the Petitioner is able to pay maintenance amount, but he is trying to avoid to pay the maintenance.

7. On the earlier date, Ms. Javeri, learned Counsel for the Petitioner took time to take instructions whether the Petitioner can pay the amount of Rs.3,00,000/- towards the arrears of maintenance. Ms. Javeri, on instructions of the Petitioner makes a

statement that an amount of Rs.1,00,000/- will be paid to the Respondent No.2 within a period of four weeks from today.

8. The position on record shows that the learned Metropolitan Magistrate after considering the material on record has held that there are huge transactions in the account of the Petitioner. The Petitioner is carrying on business under the name of 'M/s Roadster Auto Care', located at Shop No.A1, Swastik Chambers, Opposite A1 Petrol Pump, CST Road, Chembur. It has also been observed that for the business purpose, the Petitioner has obtained overdraft facility of Rs.10,00,000/- from the Syndicate Bank. There are heavy cash deposits and heavy funds money transfer by way of IMPS mode into the said account. The learned Metropolitan Magistrate has recorded that the income of the Petitioner is huge.

9. The Respondent No.2 has raised the contention that the Petitioner owns about 40 to 50 acres of land in Talewadi, Taluka Gadhinglaj, District Kolhapur, he has two bungalows and one farm house in Kolhapur. He has also entered into partnership business with Bhaskar Shettiar in the name and style of B.S. Cattle Choice

at Chander Villa, Shop No.4, Plot No.33, Nawade Phase 2, Taloja, Panvel.

10. Although it is the contention of the Respondent No.2 that the Petitioner is earning Rs.5,00,000/- per month from all his sources, the learned Trial Court has recorded that at the material time the income of the Respondent No.2 was about Rs.3,00,000/- per month.

11. In any case the Petitioner is not even ready to pay maintenance to his son.

12. Accordingly, no case is made out for interference under the jurisdiction of this Court under Article 227 of the Constitution of India. Accordingly, the Writ Petition is dismissed with costs of Rs.10,000/-.

BHALCHANDRA
GOPAL
DUSANE

(MADHAV J. JAMDAR, J.)

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