



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO.833 OF 2024

Prashant S/o Devidas Sardar
Aged about 35 years, Occ: Service,
R/o Kendriya Rakhiv Police Dal,
160, Bataliya, Delta Company,
Chatta, F.C.I. Camp,
Jammu-Kashmir-180 009.

....PETITIONER

...V E R S U S...

Sau. Meena Prashant Sardar
Aged about 33 years, Occ: household,
R/o C/o Gautam Ajabrao Wankhade,
Aurangpur, Gadanki, Tah. Achalpur,
District Amravati.

...RESPONDENT

Shri A.S. Dhore, Advocate for petitioner.
Shri Deepak Khushlani, Advocate for respondent.

CORAM: M.W. CHANDWANI, J.
DATED : 22.04.2024

ORAL JUDGMENT:

. **Rule.** Rule made returnable forthwith. Heard finally
with consent of the learned counsels for the parties.

2. Challenge in this petition is limited to the refusal of
stay by the learned Additional Sessions Judge to the order dated
26.09.2022 passed by the learned Judicial Magistrate First Class,
Achalpur below Exh.18 and 21 in D.V.M.A. No.11/2019, whereby
an amount of Rs.20,000/- per month from the salary of petitioner

was attached till realization of the maintenance amount of Rs.3,23,000/-.

3. It is not necessary to go into the factual matrix of the case in detail. Suffice to say that the learned Magistrate has granted monthly maintenance amount of Rs.2,000/- for the respondent, Rs.1,500/- each to the daughters of the petitioner and an amount of Rs.10,000/- to the respondent in the domestic violence proceedings. Since there were arrears towards maintenance to the tune of Rs.3,23,000/- upto 01.05.2019, an application came to be filed for attachment of salary of the petitioner. The learned Magistrate by the impugned order attached the salary of the petitioner to the extent of Rs.20,000/- per month till realization of the amount of arrears of Rs.3,23,000/-. Feeling aggrieved with this order of attachment, the petitioner filed a revision application before the learned Additional Sessions Judge, Achalpur which is pending before the Court. Pending said revision application, stay to the order passed by the learned Magistrate attaching salary was sought, which came to be rejected by the impugned order which is under challenge in this writ petition.

4. Grant of maintenance amount is not disputed and the fact that the petitioner is in arrears of maintenance is also admitted. The order of refusal of stay by the learned Additional

Sessions Judge is assailed on the ground that the application for stay was rejected for the reason that the petitioner has not filed details regarding his expenses. According to the learned counsel for the petitioner, this is factually incorrect. He took me to para 5 of the revision application and submitted that the details of expenses are already mentioned by the petitioner. According to him, the impugned order does not sustain.

5. I have gone through para 5 of the revision application. What has been mentioned in para 5 of the revision application is towards statutory deductions/compulsory deductions from the salary and no details of his expenses have been filed on record. Be that as it may, that is not the sole ground for refusal of the stay. The learned Judge has also observed that inspite of service of notice, the petitioner did not appear before the executing Court. It has also been observed that the take-home salary of the petitioner is Rs.40,000/-; whereas, attachment is done to the extent of Rs.20,000/-.

6. Concededly, there were arrears of maintenance of Rs.3,23,000/-. Despite of the order, he did not pay maintenance to the respondent. Therefore, the learned Additional Sessions Judge has rightly held that no case is made out for grant of stay to the

order passed by the learned Magistrate below Exh.33. Therefore, no interference is required in the order of learned Additional Sessions Judge. Consequently, the writ petition is **dismissed**.

7. Learned Additional Sessions Judge shall not get influenced by the observations made in this order while deciding the revision application.

8. Considering the issue involved in the revision, the learned Additional Sessions Judge is requested to dispose of the revision application as early as possible.

JUDGE

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