

**ORDER BELOW EXH.06 IN CRIMINAL APPEAL NO.68/2022.**

Umesh Vitthalrao Tarale Vrs. Sau. Kalpana Umesh Tarale.

( Date : 20.09.2024.)

This is an application filed by appellant (Original non-applicant) Umesh Tarale to stay the execution, operation and effect of the judgment and order passed by learned Judicial Magistrate First Class (Court No.7), Akola in Misc. Criminal Application No.203/2015, dated 11.04.2022. The said judgment and order has been challenged by filing present appeal.

2) It is submitted that respondent filed application under Protection of Women from Domestic Violence Act, 2005. By impugned judgment learned Trial Court granted maintenance of Rs. 4,000/- p.m. to the respondent and Rs. 3,500/- p.m. to the son namely Shlok from the date of order i.e. 11.04.2021. Appellant seeks stay to the execution of said judgment. Respondent has appeared and has opposed the application.

3) Heard both sides. Learned advocate for the appellant Shri. D.S. Joshi has submitted that Family Court also granted maintenance order and order passed in proceeding under D.V. Act is additional to such order. Respondent is in service and she does not require maintenance. There are certain errors in the judgment like evidence of witness has gone unchallenged which is not so. He has submitted that the appellant is ready to deposit some amount towards maintenance of the son. Per contra, learned advocate Shri. H.M. Lahoti has submitted for the respondent that amount of Rs. 2,00,000/- is outstanding. No amount of maintenance is paid towards the son also. He has urged to

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grant stay only if the appellant deposits entire maintenance amount towards the son.

4) Perused the impugned order. It is submitted on behalf of the appellant that respondent Kalpana is in service. So she may not be in dire needs of maintenance amount. Crux of the arguments is maintenance provided to the son. Today pursis at Exh.12 has been filed on behalf of the appellant that salary to the extent of Rs. 20,000/- p.m. is attached. Actual amount of Rs. 40,000/- is attached by now. To counter this information, respondent has filed pursis to the effect that amount of Rs. 40,000/- is attached by Family Court towards recovery of Rs. 9,00,000/- in E.R. No. 39/2022. There is no dispute that order of attachment to the tune of Rs. 20,000/- p.m. has been passed. However from the pursis Exh.13 it appears that such attachment order is of Family Court and not in the execution of impugned judgment and order under D.V. Act.

5) As far as son of the parties is concerned from 11.04.2021 total arrears are about Rs. 1,43,500/- till 10.04.2024. So while granting stay substantial part of these arrears should be paid by the appellant. In such situation I pass following order.

**ORDER.**

1. Execution and operation of the judgment and order passed by learned J.M.F.C. Court No.7, Akola in Cri. Misc. Appln. No. 203/2015 on 11.04.2021 is hereby stayed till decision of the appeal subject to depositing Rs. 75,000/- by the appellant before learned Trial Court within one month from now.
2. Appellant shall deposit the amount of Rs. 2,000/- p.m. from

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October, 2024 onwards before learned Trial Court. The amount shall be deposited on or before 15<sup>th</sup> date of each month till further order.

3. Inform the learned Trial Court.

Akola.  
Date : 20.09.2024.

( A. D. Kshirsagar )  
Additional Sessions Judge,  
Akola.

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Certificate

I hereby certify that the contents of this PDF File are same word for word as per original order.

Name of Steno : A.J. Dharamkar.  
Court's name : Dist. Judge- 1 & ASJ, Akola.  
Date of dictation : 20.09.2024.  
Signed by Presiding Officer on : 20.09.2024.  
Uploaded on : 20.09.2024.