



Cri.M.A./144/2024

Heena Kausar Shaikh Javed Vs. Javed Chotu Shaikh

ORDER BELOW EXH. 12

this is an application for issuance of directions to N.A. to file his income tax returns and affidavit as to asset and liability.

02. It is submitted that, the matter is fixed for the evidence of applicant. N.A. is serving as teacher in the Burhani National Urdu Primary School, Aurangabad. Moreover, he possessed and owned house property, plots, agricultural land, etc. at Sillod and he is tax payer. It requires to have documentary evidence on record as to his income. Hence, it is prayed for granting the very application.

03. The say of N.A. was called upon. Accordingly, vide Exh. 13 Ld. Adv. A. V. Deshpande filed his say and opposed the application contending that, the application is not maintainable and same is filed only to harass the N.A. Applicant is trying to collect the evidence through the Court machinery. It is applicant who mentioned source of income of N.A. and it is applicant's duty to produce documentary evidence as to the income of N.A. Hence, it is prayed for rejecting the application.

04. Perused the application, say thereon and record in hand.

This is petition under Section 125 of Cr.P.C. for seeking relief of maintenance. Applicant specifically averred that, N.A. is serving as teacher in the national Burhani Urdu High School, City Chowk, Aurangabad and he is earning salary of Rs. 65,000/- to 70,000/- per month.

05. In view of the mandate given in Rajnesh Vs. Neha by the Hon'ble Supreme Court it is mandatory in the case of maintenance to file affidavit as to assets and liability by rival parties. Here, it appears that, applicant filed her affidavit as to assets and liability. Whereas, N.A. has not filed the same. The fact of income of the N.A. is the fact which is in his exclusive knowledge. As such, burden lies on him to prove his income. Hence, direction issued for filing income tax return for the year 2024-25 and affidavit as to asset and liability by N.A. doesn't amount the collection of evidence by the applicant using Court machinery. The way, it appears that, the Court can direct N.A. to file his income tax returns for the current economic year and his affidavit as to asset and liability for the sake of just decision. Accordingly, I pass the following order :-

ORDER

- i. The application vide Exh. 12 is hereby allowed.
- ii. N.A. is directed to furnish his income tax returns for the year 2024-2025 and to file his affidavit as to asset and liability.

Date – 28/10/2025

(K. T. Adhayke)
Judicial Magistrate First Class,
Sillod.