

Order below Exh. 6

The present application filed by the non-applicant for dismissal of recovery application filed by the applicant.

02] The non-applicant submitted that the applicant has filed recovery of maintenance application from 2/08/2016 till 8/02/2021 for fifty months for total amount of Rs. 2,50,000/-. The Court pleased to decide application on 3/03/2020. By that order the application was partly allowed and the maintenance was not awarded from the date of filing of the application. The applicant has played fraud and filed false recovery application. The correct recovery of the amount is from 3/03/2020 till today i.e. 17 months. Therefore, the recovery amount should be Rs.85,000/-. Out of that the non-applicant has paid Rs.10,000/-. The applicant has claimed excess amount by playing fraud for which she is liable to punish under section 420 of IPC. The applicant be directed to claim legitimate amount and she should carry out correction. The non-applicant is ready to comply the order of the Hon'ble Court. Therefore, he prayed for dismissal of the application.

03] The applicant filed reply on the application itself and apposed the application on the ground that there is no such period specifically mentioned in the judgment. From the date of filing of the application the amount has been calculated. On previous date this Court gave direction to the non-applicant to deposit remaining amount but non-applicant has not obeyed the

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order. The non-applicant is trying to prolong the matter. Therefore, he prayed for rejection of the application.

4] Heard both sides. Perused all documents on record. On 3/03/2020 this Court passed judgment in MCA No. 299/2016. By way of that judgment the respondent is directed to pay maintenance amount of Rs. 5000/- p.m. to the applicant. It is true that the duration from which date the maintenance amount is payable is not mentioned. The Hon'ble Supreme Court in case of *Rajnish v. Neha (2021) 2 SCC 324* held that *“Even though the judicial discretion is conferred upon the Court to grant maintenance either from the date of application or from the date of the order in section 125(2) Cr.P.C., it would be appropriate to grant maintenance from the date of application in all cases, including section 125 Cr.P.C. In the practical working of the provisions related to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application”*.

5] Therefore, as per above ruling of the Hon'ble Supreme Court the maintenance is awarded is from the date of the application. Therefore, the application filed by the non-applicant is lacking merit. Hence, the application is rejected.

Kamptee
Dated 17/09/2021.

(S.S. Gadve)
Judicial Magistrate First Class,
Court No.2, Kamptee.

