


MHNG080013522020 	<u>Cri.M.A.No.564/2020</u> <u>Priti Vs. Shailesh & ors.</u>
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ORDER (BELOW EXH.35)
(Passed on 03/12/2025)

The applicant has filed present application for striking off the defence of the non-applicants for non-compliance of interim maintenance order dated 14.12.2021.

2. It is contended that this Court, vide order dated 14.12.2021 passed below Exh.04, partly allowed interim maintenance application of the applicant and directed non-applicant No.1 to pay an amount of Rs.5,000/- per month to the applicant from the date of filing of the application. Non-applicant No.1, being aggrieved by said order, preferred Cri. Appeal No.13/2022 before the Hon'ble District Judge, Nagpur. Hon'ble District Judge, Nagpur, vide its order dated 07.04.2025, dismissed said appeal. Therefore, order dated 14.12.2021 passed below Exh.4 attend finality. Till date, non-applicant No.1 not complied said order and therefore, he is in arrears of Rs.2,85,000/-. Non-applicant No.1 willfully and deliberately not complied said order, therefore, it is necessary to strike off his defence. Hence, the application.

3. The non-applicant filed his reply at Exh.38 and strongly opposed the application. It is contended that he paid Rs.30,000/- to the applicant. As he is complying the order of this court, the question of striking of his defence does not arise. Hence,

prayed to reject the application.

4. Heard both sides.

5. It is the contention of the applicant that the non-applicant willfully and deliberately not complying order dated 14.12.2021 passed below Exh.4. But, it is the contention of the non-applicant that he is complying said order and paid Rs.30,000/- to the applicant.

6. There is no doubt that the Court can strike off the defence of the non-applicant for willful non-payment of interim maintenance under the Domestic Violence Act, but only as a last resort. This power is used to ensure compliance with Court orders and is a tool for enforcing maintenance obligations, particularly when the default is deliberate and willful. Section 28 of the Domestic Violence Act allows Court to lay down their own procedure to deal with applications and interim relief orders, which can include strike off a defence for non-compliance. The Court have established a clear precedent that non-payment can lead to the striking off a defence, reinforcing the importance of maintenance orders.

7. It means, the Court under Section 28 of the Act can strike off defence of the non-applicant for non-payment of interim maintenance amount, but only as a last resort. Therefore, it is necessary to see whether the non-applicant willfully not paid interim maintenance amount to the applicant or not.

8. Perusal of record shows that the present application filed by the applicant on 19.07.2025 and on the same day the non-applicant deposited Rs.20,000/- in the Court vide C.No.141/2025. The applicant filed recovery application against the non-applicant

vide PWDVA No.29/2025 for recovery of Rs.2,85,000/-. Perusal of said proceeding shows that on 28.07.2025 non-applicant paid Rs.10,000/- to the applicant, on 02.09.2025 non-applicant deposited Rs.30,000/- in the Court vide C.No.224/2025 and on 04.11.2025 non-applicant paid Rs.30,000/- to the applicant directly in her bank account. Today also the non-applicant paid Rs.30,000/- to the applicant directly in her bank account. There is an endorsement of the applicant below Exh.1 of that proceeding that she received Rs.30,000/- on 03.10.2025 and 28.07.2025 through bank transfer. It means the non-applicant till date paid Rs.1,20,000/- to the applicant in compliance of order dated 14.12.2021. The non-applicant filed undertaking in that proceeding that he will pay remaining amount to the applicant in 8 installments in next 8 months. Thus, perusal of both record show that the non-applicant is complying the order dated 14.12.2021. Record shows that there is no willful default on the part of non-applicant. Therefore, there is no need to strike off defence of the non-applicant. Thus, the application is devoid of merits and deserves to be rejected. Hence, I pass following order.

ORDER

Application (Exh.35) is rejected.

Kamptee
Date :03.12.2025

(R.R. Sherekar)
Judicial Magistrate First Class,
(Court No.2), Kamptee.

ENDORSEMENT

Case argued on	:	03.12.2025
Order dictated on	:	03.12.2025
Transcription ready on	:	03.12.2025
Order checked and signed on	:	03.12.2025

CERTIFICATE

I affirm that the contents of this P.D.F. File are same word to word as per original order.

Name of Steno :- **Sau. P.A.Nirmal**