



Gaikwad RD

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3750 OF 2023

Rajabali Shabbir Wishiwala & Anr.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondent

Ms. Nazneen S. Baig, *for the Petitioners.*

Mr. Vinod Chate APP, *for Respondent No.1-State.*

Mr. Jitendra Ahuja, *for the Respondent No.2.*

CORAM Dr. Neela Gokhale, J.

DATED: 29th November 2024

PC:-

1. By order dated 16th April 2024, this Court had requested the Judicial Magistrate First Class, Cantonment Court, Pune to submit a report to this Court in respect of the order dated 30th April 2016 passed below Exhibit 5 as claimed by both the parties.

2. By letter dated 20th September 2024, a report is received under the signature of the 2nd Joint Judicial Magistrate First Class, Cantonment Court, Pune along with the statements recorded of the staff of the Court as well as the Petitioner No.1 and Respondent No.2.

3. I have perused the report. Strangely, the report is inconclusive and as per the statements of the staff member as well as the Applicant and Non-Applicant in Criminal Miscellaneous Application No.1056 of 2015, there is no clarity on whether the order below Exhibit 5 passed on 30th April 2016 is the one relied upon by the Applicant or it is the one relied upon by the Respondent No.2-Wife.

4. Be that as it may, today a complaint under the Protection of Women from Domestic Violence Act, 2005 is pending before the Judicial Magistrate First Class, Karjat. There is an interim order passed by the J.M.F.C., Karjat directing the Applicant to pay interim maintenance of Rs.7000/- per month to the Respondent No.2-mother and Rs.3000/- per month to their minor son from the date of filing of the Application. Admittedly, the Applicant stopped paying the interim maintenance as directed by the J.M.F.C, Karjat from May 2022. According to learned counsel for the Respondent No.2-wife, there are arrears of Rs.3,00,000/- in respect of the said order. Ms. Baig, learned counsel appearing for the Petitioner Husband submits that the second D.V. complaint now pending before the learned J.M.F.C, Karjat is not maintainable since there was a compromise between the parties before the J.M.F.C, Cantonment Court, Pune in the first D.V. complaint and the amount as agreed between the parties has already been paid to the parents of the Respondent No.2-wife.

5. I have heard learned counsel for both the parties and perused the record with their assistance.

6. Both the learned counsel, on instructions, are ready to espouse the possibility of settlement by way of mediation. Let the matter be sent to the Mediation Centre of this Court. The Officer-in-charge of the Mediation Centre shall appoint a suitable Mediator from the Panel. Learned Mediator is requested to make an effort to bring about the settlement between the parties. To facilitate the possibility of settlement between the parties, the matter is being adjourned today. The parties are directed to approach the Mediation Centre on 5th December 2024 at 11:00 a.m. Since the Applicant is presently employed in Dubai and Respondent No.2 is also coming from Neral and is also required to look after her minor child, learned Mediator appointed may consider allowing them to join the mediation process through video conferencing.

7. In the meantime, as an *ad hoc* arrangement, the Applicant shall transfer an amount of Rs.3,00,000/- to the Respondent No.2-wife in her bank account directly within a period of two weeks from today. It is clarified that this is only an *ad hoc* arrangement made for the benefit of the minor child for the time being. The counsel for Respondent No.2 is directed to give details of his client's bank account to the counsel of Petitioner at the earliest.

8. List the Petition on 17th January 2025, for further consideration.

9. Learned Mediator is requested to submit his/her report on or before the next date.

(Dr. Neela Gokhale, J)