

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION NO. 229 of 2023
(FOR MAINTENANCE)

With

CRIMINAL MISC.APPLICATION NO. 1 of 2023
(FOR STAY)

In

R/CRIMINAL REVISION APPLICATION NO. 229 of 2023

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ISMAILBHAI ABDUL RAHIM SHAIKH

Versus

STATE OF GUJARAT

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Appearance:

MR ZUBIN F BHARDA(159) for the Applicant(s) No. 1

MR MAKBUL I MANSURI(2694) for the Respondent(s) No. 2

MS JIRGA JHAVERI, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE S.V. PINTO**

Date : 06/02/2024

ORAL ORDER

1. Heard learned advocate Mr. Zubin Bharda for the applicant and learned advocate Mr. Makbul Mansuri and learned APP Ms. Jirga Jhaveri for the respondent – State.
2. Learned advocate Mr.Zubin Bharda for the applicant submits that the challenge in this application is the order passed below Exh.6 regarding the interim maintenance to be paid by the applicant to the respondent No.2. That the respondent No.2 is step mother of the applicant and the parties are governed by the Mohammedan Law and the applicant is not liable to maintain the step mother. Moreover, during the

lifetime of the respondent No.2 and the father of the applicant, they had separated and the father of the applicant had paid a lump sum permanent alimony of Rs.50,000/- to the respondent No.2. That it appears that the trial has begun and the deposition of the respondent No.2 has been recorded and she has also been cross-examined by the learned advocate for the applicant. That during the cross-examination, the respondent No.2 – step mother has stated that she was working as a broker in Narmada Bhavan, Vadodara and she is earning. In spite of that, she has filed the maintenance application against the present applicant, which is not maintainable in law. That the impugned order of the interim maintenance is bad in law. That the applicant is ready and willing to deposit outstanding amount of maintenance, which is around Rs.1,25,000/- in view of the fact that the recovery proceedings have been initiated by the respondent No.2 – step mother against the applicant and the warrant has also been issued. The learned advocate for the applicant further submits that even though, the applicant has a good case on merits as the warrant has been issued, he is not able to appear before the learned Trial Court to put up his case and to conduct the matter. Learned advocate for the applicant urges this Court to stay the recovery proceedings on condition that the outstanding amount of Rs.1,25,000/- is

deposited before the learned Trial Court and the said amount to be kept in Fixed Deposit Receipt till the final outcome of the application.

3. Learned advocate Mr. Makbul Mansuri for the respondent No.2 has submitted that the respondent No.2 – step mother is ready and willing to conduct the matter and the present applicant may be directed to deposit the outstanding amount of maintenance and also to cooperate in the trial before the learned Trial Court in disposing of the matter.
4. Learned App Ms. Jirga Jhaveri for the respondent – States submits that necessary order may be passed keeping in mind the situation of the parties.
5. That the applicant has a good case on merits and he is ready and willing to deposit the amount of Rs.1,25,000 being the arrears of the interim maintenance as ordered by the learned Trial Court and it would be appropriate, if the order of the interim maintenance is stayed and also the proceedings of Execution petition No.80 of 2023 filed by the respondent No.2 – step mother before the learned Family Court, Vadodara is stayed on the condition that the applicant deposits the amount of Rs.1,25,000/- before the learned Trial

Court within a period of 20 days. That the applicant will file undertaking that he will deposit the outstanding amount of Rs.1,25,000/- and the Nazir of the learned Family Court, Vadodara is directed to put the amount deposited by the applicant in a Fixed Deposit Receipt and will not disburse the same till final outcome of the Criminal Misc. Application No.510 of 2019.

6. It is needless to say that the parties are directed to fully cooperate that the learned Trial Court in disposing of the matter and the learned Trial Court to make all efforts to dispose of the matter at the earliest as the matter pertains to the year 2019.
7. With the above direction, both the applications are disposed of. Notice discharged. Direct service is permitted.

F.S.KAZI.....

(S. V. PINTO, J)