

(2013) 04 BOM CK 0003

In the Bombay High Court

Case No : Criminal Writ Petition No. 65 of 2013

Shweta Amar Gaikwad and Another

APPELLANT

Vs

Amar Duryodhan Gaikwad

RESPONDENT

Date of Decision : 25-04-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2013) ALLMR(Cri) 2770

Hon'ble Judges : M.L. Tahaliyani, J

Bench : Single Bench

Advocate : P.S. Tiwari, for the Appellant; Varsha Dhobale, for the Respondent

Final Decision : Disposed Off

Judgement

M.L. Tahaliyani, J.—Heard. Rule. Heard finally with the consent of the parties. Petitioner No. 1 is wife and petitioner No. 2 is the daughter of the respondent. Petitioners had filed petition u/s 125 of the Criminal Procedure Code before the Family Court. While passing interim order learned Principal Judge of the Family Court had directed that the respondent shall pay Rs. 1500/- P.M. to the petitioner No. 1 by way of interim maintenance with effect from 13th August 2012. As far as petitioner No. 2 is concerned the observations made by the learned Principal Judge of Family Court are as under:

So far as minor child is concerned, he is hardly two months old. There is no extra expenses. She can maintain him in an amount of Rs. 1500/- p.m.

As such the learned Family Court Judge has included maintenance amount of child in the interim relief granted to the petitioner No. 1. Petitioner No. 1 is not satisfied with the interim maintenance of Rs. 1500/-. So far as petitioner No. 2 is concerned, it is submitted by Shri Tiwari, learned counsel for the petitioners that in fact the expenses of petitioner No. 2 per month are more than the petitioner No. 1. The learned counsel Smt. Dhobale has submitted that the respondent is not financially sound enough to pay Rs. 1500/- P.M. to the petitioner. It is

submitted that if the interim maintenance amount is enhanced, the respondent will not be able to pay the same. In this regard it may be mentioned here that if the respondent is not working and not earning it cannot be the fault of the petitioners. If the respondent does not want to work and earn for his wife and child he must bear in mind that he has to work to maintain his wife and child. The excuses given on behalf of the respondent that he is not able to pay is not acceptable. I, therefore, modify the interim order as under:

Respondent-Amar Duryodhan Gaikwad shall pay Rs. 1500/- P.M. to the petitioner No. 1 and Rs. 1000/- P.M. to the petitioner No. 2 with effect from 13th August 2012. This order shall remain in force till the final disposal of the application filed by the petitioners i.e. No. E-326 of 2012 as amended by the petitioners. Criminal Writ Petition is accordingly disposed of. Application be heard and decided as expeditiously as possible.