

**IN THE HIGH COURT OF BOMBAY AT GOA****CRIMINAL WRIT PETITION NO.206 OF 2019**

Maria do Carmo Ribeiro de  
Santana Costa Martins & Anr.

... Petitioners

Versus

Emilio Carlos Antonio Jude  
Thadeus Costa Martins

... Respondent

Shri A.R. Kantak, Advocate for the Petitioners.

Shri T. Vaz, Advocate for the Respondent.

Shri Gaurish Nagvekar, Additional Public Prosecutor for the State.

**Coram:- DAMA SESHADRI NAIDU, J.**

**Date:- 2<sup>nd</sup> September 2020**

**P.C. :**

The petitioners are the wife and the daughter of the first respondent. The first petitioner and the first respondent got married in 1999 and had in that marriage the second petitioner in 2000. After that, differences arose between them. As a result, it seems, the petitioners—the mother and the daughter—started living separately.

2. In 2013, the petitioner applied under Section 125 of Cr PC to the Judicial Magistrate First Class (JFCM), at Panaji, for maintenance. It is in Maintenance Application No.5/2013. Pending the proceedings, the trial Court, on 13.01.2015, passed an order directing the first respondent to pay ₹20,000/- per month as interim maintenance to both the petitioners. Though this order was challenged, both before the Sessions Court and later before this Court, the respondent could not succeed. The order attained finality.

3. But the first respondent did not choose to pay the interim maintenance. Then the petitioners applied to the trial Court for the realisation of the accumulated arrears. To this day, they have filed four such applications. Indeed, the arrears have been mounting, but there has

been no payment. Even before this Court, half a dozen times, the respondent has sought time to pay a certain amount to prove his bona fide but never complied with any of his undertakings. Instead, he went on changing his counsel.

4. Leaving that issue aside, I may note that the trial Court, through its order, dated 01.11.2017, required the Canacona Police Station to attach the respondent's movables. Later, in another order, for the subsequent arrears, the trial Court, once again on 06.08.2018, required the District Collector, North Goa, Panaji, to attach the respondent's immovable properties.

To this date, the Court does not know what happened to those directives. They seem to be still lying with the Authorities concerned. In this backdrop, the trial Court passed this impugned order, when the petitioners filed yet another application for realising the maintenance arrears. The operative portion reads as follows:

Issue letter to the Collector of North Goa asking for a report on the warrant dated 20.05.2019 to enforce payment of attachment and sale (under section 125 Cr.P.C.).

For me, it is difficult to understand why the petitioners have chosen to challenge this order. At any rate, this is not the stage to rule on the petitioner's wisdom in assailing what seems to be an innocuous order seeking information from an authority concerned. It is to aid the process of execution and realisation of the maintenance amount, though.

6. At any rate, the Court is saddened to note that despite much judicial effort, the distraught, and possibly destitute, women could not realise the amounts the trial Court ordered as an interim measure—for their sustenance and survival. And that interim order has become final.

Under these circumstances, I need not stress the need of reminding all concerned, including the Canacona Police Station and the District Collector, North Goa, to expedite the process and ensure that the needy are provided for, and the avoider has accounted for. Lest there should be a premium on dishonesty or, at least, plain obstruction.

7. I, therefore, once again stress the sense of urgency this matter carries. So I require the Canacona Police Station and the District Collector, North Goa, to submit to this Court a report about the steps they have so far taken to enforce the judicial order they have received earlier.

The Registry will hand over a copy of this order to the learned Additional Public Prosecutor concerned, who in turn will communicate it to the Authorities concerned. Once the Authorities receive this order, in two weeks from then on, they will file a report before this Court.

8. Post the matter on 18.09.2020.

**DAMA SESHADRI NAIDU, J.**

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