



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JUNE, 2023

BEFORE

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO.24827 OF 2022 (GM-FC)

BETWEEN:

SINDHU BOREGOWDA.,

...PETITIONER

(BY SRIS N BHAT,ADVOCATE)

AND:

YASHWANTH BHASKAR B P,

...RESPONDENT

(BY SRI. GANESH H KEMPANNA.,ADVOCATE)

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by SHARADA
VANI B

Location: HIGH
COURT OF
KARNATAKA

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DATED 16.11.2022 PASSED BY VI ADDL. PRL FAMILY JUDGE, FAMILY COURT, BENGALURU, IN M.S.NO.4301/2018 (ANNX-F) AND CONSEQUENTLY ALLOW I.A.NO.11 AND 12 (ANNX-C AND D) AND PERMIT THE RESPONDENT TO FURTHER CROSS EXAMINE THE RESPONDENT (PW1).



THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner and respondent are an estranged couple. Respondent-husband's M.C.No.4301/2018 for dissolution of the marriage that was solemnized on 15.06.2014 is pending on the file of the learned VI Addl. Principal Judge, Family Court at Bengaluru. The trial of the case is half way through. Respondent who is presently residing in U.S. needs to be cross-examined, by recalling the stage of the case. This prayer of the petitioner although has been granted, the same is made to an onerous condition of making payment for the to & fro journey of the respondent, by the order dated 16.11.2022. This petitioner seeks to lay a challenge to the same.

2. Learned counsel for the petitioner argues that his client is being paid a monthly maintenance of Rs.20,000/- and some of that still remaining due, the impugned condition for making a payment of huge money ie., about Rs.1.65 lakh could not have been stipulated. Learned



counsel appearing for the respondent-husband on caveat opposes the petition making submission in justification of the impugned order and the reasons on which it has been constructed.

3. Having heard the learned counsel for the parties and having perused the petition papers, this Court is inclined to grant indulgence in the matter as under and for the following reasons:

(a) Admittedly, the Court below has directed the payment of monthly maintenance to the petitioner in a sum of Rs.20,000/- and that petitioner has laid a challenge to the alleged frugal sum in W.P.No. 8217/2020, which is pending; this amount is directed to be paid so that petitioner who apparently does not have means of livelihood. If that be so, this Court is at loss to know the logic in directing the petitioner to make good the traveling expenses of the respondent-husband who is gainfully employed in United States of America. The learned Judge of the Court below ought to have thought, as to how the



petitioner would be able to pay this amount, even if the respondent because of his travel has incurred that expenditure.

(b) Putting a condition of the kind would virtually amount to foreclosing petitioner's right to cross-examine/further cross-examine the respondent that too in a serious matter in which her marriage is at stake. Courts of justice cannot stipulate a condition to a party which he or she will not be in a position to comply with. In any circumstance, the condition in question being bereft of elements of justice, is unsustainable.

(c) It is not that the respondent-husband is a poor gentleman and therefore he could not afford to spend for his travel to India for prosecuting the Marriage Dissolution Case which he himself has instituted. If petitioner-wife had instituted it, different considerations would have arisen. May be that, there is some fault that lies with the petitioner in not cross-examining the respondent whilst in



Bengaluru. A plausible explanation is offered for that lapse. It is not that petitioner does not agree for cross-examining the respondent by video-conferencing, with which he too is comfortable.

(d) All the above having been said, the learned counsel appearing for the respondent is more than justified in insisting upon the early disposal of the matrimonial case in the court below, lest the delay should come in the way of reshaping his life, in the event he succeeds in the legal battle.

In the above circumstances, the writ petition is allowed, a Writ of Certiorari is issued quashing the impugned order. Learned Judge of the Court below is requested to organize cross examination/ further cross examination at the hands of the petitioner, subject to convenience of both the sides.



Learned Judge of the Court below is requested to try & dispose off subject Matrimonial Case preferably within an outer limit of four months.

Costs made easy.

**Sd/-
JUDGE**

Bsv

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