

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 06TH DAY OF AUGUST, 2015

BEFORE

THE HON'BLE Mr. JUSTICE A.N.VENUGOPALA GOWDA

CRIMINAL PETITION NO : 3664 /2015

BETWEEN:

SMT B.K.SUMATHI
W/O SRI ARUN DESAI
AGED 47 YEARS
R/O PLOT NO.222, 2ND FLOOR
SUMAKHA SIMHANDRI STRINGS
3RD CROSS, SIMHADRI LAYOUT
BANGALORE-560 061.

.... PETITIONER

(By SRI MADHUKAR NADIG, ADV.)

AND:

SRI ARUN DESAI
S/O LATE ANNAJI DESAI
AGED 50 YEARS
R/NO. 30, 2ND FLOOR
HONEY GARDENS, VAJARAHALLI
HOLIDAY VILLAGE ROAD,
BANGALORE-560 062.

....RESPONDENT

(BY SRI ARUN DESAI, PARTY-IN-PERSON)

THIS CRIMINAL PETITION FILED UNDER SECTION 482 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE IMPUGNED ORDER DATED 26.05.2015 PASSED BY THE M.M.T.C.-II, BANGALORE IN CRL.MISC NO.7/2014, SO FAR AS IT RELATES TO ISSUING CHEQUE TO THE RESPONDENT FOR AN AMOUNT OF RS.12,098 BY ALLOWING THE CRL.P

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

ORDER

Marriage of the petitioner and the respondent was solemnized on 28.02.1994. Out of the wedlock, they have a daughter and a son. Crl.Misc.No.87/2010 filed by the petitioner was decided on 03.12.2013 and the respondent was directed to deposit Rs.16 Lakhs, to be apportioned in equal proportion between the two children. Seeking enforcement of the said order, Crl.Misc.7/2014 was filed. A joint memo having been filed, the said petition was disposed of on 11.11.2014. In terms of the agreement, Rs.8 Lakhs was deposited in

the name of each child, i.e., Kumari Abhigna Desai and Master Ganesh i.e., in compliance of the order dated 03.12.2013 passed in CrI.Misc.No.87/2010. The amount having been deposited, was invested in Fixed Deposit, in the Karnataka Bank Limited, to remain in deposit till the minor son Master Ganesh attains the age of majority. The deposit made in the name of Kumari Abhigna Desai was released in favour of the petitioner.

2. Master Ganesh, presently being in the custody of the father, the respondent filed an application to direct the release of Rs.12, 098/-, being the accrued interest on the said Fixed Deposit amount, standing in the name of Master Ganesh. The said prayer having been allowed by an order dated 26.05.2015, this petition was filed to set aside / quash the said order.

3. Sri. Sri.Madhukar Nadig, learned advocate, contended that the respondent is not entitled to draw the interest which has accrued on the Fixed Deposit amount of Rs.8 Lakhs, deposited pursuant to the orders passed by the learned Magistrate in CrI.Misc.Nos.87/2010 and 7/2014. Learned counsel contended that by permitting the respondent to draw the accumulated interest of Rs.12, 098/-, the interest of the minor has not been protected by the learned Magistrate.

4. Respondent, party-in-person, on the other hand, submitted that he not withdraws the Fixed Deposit amount of Rs.8 Lakhs and the same would remain in deposit, till Master Ganesh attains the age of majority. He submitted that the interest accrued on the Fixed Deposit is required to be utilized for meeting

the educational expenses of his son, studying in 2nd P.U.C. He submitted that in the said circumstances, learned Magistrate is justified in passing the order dated 26.05.2015 i.e. permitting him to withdraw the interest amount of Rs.12,098/- accrued on the fixed Deposit of Rs.8 Lakhs.

5. Having regard to the submissions of the learned counsel for the petitioner and the respondent, in my opinion, the learned Magistrate has not committed any illegality in permitting the respondent to make use of the accrued interest amount of Rs.12,098/- on the Fixed Deposit amount of Rs.8 Lakhs standing in the name of the minor son - Master Ganesh. There being no dispute that Master Ganesh is studying in 2nd P.U.C., his educational expenditure has to be met. The respondent, having deposited Rs.16 Lakhs pursuant to the order passed in

Crl.Misc.87/2010, the interest earned there from, will have to be utilized for the benefit of the children. Keeping the said aspect in view, the learned Magistrate has passed the impugned order and the same cannot be characterized either as perverse or illegal.

6. However, the respondent shall not be entitled to withdraw the sum, in Fixed Deposit, i.e., Rs.8 Lakhs, until permitted by a specific order of the learned Magistrate. The deposit shall continue in the name of Master Ganesh, till he attains majority and further order is passed by the learned Magistrate in Crl.Misc.No.87/2010 or Crl.Misc.No.7/2014.

In the result, petition being devoid of merit, is rejected.

**Sd/-
JUDGE**

dh*