

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 36 OF 2023

Mr. Sunil Vishnu Desai

Aged : 60 years, Occ: Consultant

Indian Inhabitant, Residing at Shree Mahesh CHS,

A-2 Wing, Block No.11, Devi Chowk, Shastri

Nagar, Dombivali (W), District – Thane

...Petitioner

SNEHA
NITIN
CHAVAN

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Date: 2026.07.13
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Versus

1. Mrs. Sakshi Sunil Desai

Aged 50 years, Occ: House maker

2. Samruddhi Sunil Desai

(Respondent No.2 being minor shall be

represented by her month i.e. Respondent No.1)

both residing at c/o Ashish Rane, 20 Padmashree

Mention, 2nd floor, Dr. B.A. Road, Lalbaug,

Mumbai – 400012.

...Respondents

3. The State of Maharashtra,

through Public Prosecutor, Mumbai

Ms. Veermalla Gopal for the Petitioner.

Ms. Shazia Bano Mohd. Shoeb (Through Legal Aid) for Respondent Nos.
1 and 2.

Ms. Manish Tidke, APP for the Respondent/State.

CORAM : M.M. SATHAYE, J.

DATE : 10th JULY, 2026

P.C. :

1. Rule. Rule made returnable forthwith. Heard finally by
consent of learned Counsel for the parties. Perused the record.

2. This is yet another unfortunate dispute between husband and wife. The Petitioner/husband is about 63 years old and Respondent No.1/ wife is about 53 years old, Respondent No.2 is a daughter born from the wedlock who is presently about 15 years old.

3. The Petitioner is challenging an order dated 18.03.2021 passed by the Family Court-2, Bandra, Mumbai in Petition No. E-188/2014, by which the Petitioner is directed to pay maintenance of Rs.15,000/- per month to wife and Rs.8,000/- per month to the daughter under Section 125 of the Code of Criminal Procedure, 1973 ('CrPC' for short). Incidentally, by the same common judgment, the claim of Respondent No.1/wife for restitution of conjugal rights is allowed. However, the decision on restitution of conjugal rights is not subject matter of this petition.

4. Learned Counsel for the Petitioner/husband submitted that Petitioner did not enter witness box. That though a pay slip of April 2019 is produced before the Family Court at the instance of Respondent No.1/wife, immediately in May 2019, the Petitioner has resigned from the job, which resignation was accepted. A copy of letter dated 03.05.2019 issued by the Petitioner's employer is placed on record which indicates that the resignation has been accepted. It appears from the impugned order that this fact of resignation has not been brought on record of the Family Court.

5. Learned Counsel for the Petitioner/husband further submitted that after resignation, the Petitioner is presently working as a consultant and he is earning about Rs.30,000/- to Rs.35,000/- per month. According to the averments in the petition, he is earning about

Rs.20,000/- to Rs.25,000/- per month. It is submitted that consulting practice does not generate fix income but it fluctuates. It is submitted that the Petitioner is 63 years old and he is regularly paying the maintenance for Respondent No.2/daughter. Attention of the Court is also invited to the copies of LIC policies bought in the name of Respondent No.2/daughter by the Petitioner. It is submitted that the Respondent No.1/wife was earning by working in *patpedhi*. It is also submitted that the Petitioner himself is suffering from medical issues. It is submitted that considering his age, present income and his own medical issues, the amount granted under impugned order is excessive. It is further submitted that after the order of restitution of conjugal rights, Respondent No.1/wife has not come back to cohabit with the Petitioner.

6. On the other hand, learned Counsel for the Respondent Nos. 1/wife supported the impugned order contending *inter alia* that the Petitioner husband had filed affidavit of evidence, but he chose to remain absent and chose not to further enter witness box. It is submitted that wife has been cross-examined. She submitted that after impugned order, an effort was made to return to the matrimonial house, but because the Petitioner's sister was present in the house, the wife was not permitted to enter.

7. It appears that it has resulted into cross police complaint/NCs against each other.

8. Learned counsel for the Respondent No. 1/wife further submitted that merely because the Petitioner has resigned from the company, he is not absolved of the liability to pay maintenance. She

contended that considering the quantum awarded in the impugned order, interference is not required. She relied on judgments of **Bhuwan Mohan Singh v/s. Meena and Ors.-2014 Cri. L.J. 3979** and **Sandeep Kumrawat v/s. Antima Kumrawat-AIR OnLine 2023 MP 1579**, in support of her case.

9. I have considered the rival submissions and perused the record. There is no dispute about law laid down in above judgments relied by the Respondent/wife. However, due to nature of dispute, it has to be decided in the facts and circumstances of this case.

10. It appears that the parties got married late in their age, in April 2010, and after birth of Respondent No.2/daughter, Respondent No.1/wife has left matrimonial house in November 2011. It has been over 15 years since then. It has come on record that Respondent No.1/wife has admitted that at the time of marriage, she knew that her husband is living with his mother, brother and father. It appears that subsequent presence of husband's sister in the matrimonial home created discord between Respondent No.1/wife and matrimonial family. In fact, learned Judge of the Family Court has held that the sister of the Petitioner has polluted the atmosphere of the matrimonial home. Though, it is true that pay slip of Petitioner was on record, based on which, the amount of maintenance has been arrived at, it is equally true and not disputed that the necessary disclosure affidavits were not filed by the parties (both by husband and wife).

11. The Petitioner/husband has filed affidavit of assets and liabilities dated 27.08.2022 in this Court, where according to the Petitioner, his income is about Rs.20,000/- to Rs.25,000/- and his

monthly expenses are about Rs.30,000/-. Respondent No.1 wife has not filed any disclosure affidavit in this Court.

12. It is neither shown to the Court nor it appears from the impugned order, what was the exact reason for the Petitioner husband to resign from the company. Merely because the Petitioner has resigned or retired, the liability to maintain dependent wife and child does not go away. The fact that Respondent No.1 wife has filed application for restitution of conjugal rights is sufficient to indicate that Respondent No.1 herself wanted to join the company of Respondent. However, from March 2021 when the restitution was ordered, till today, apart from an effort in around May 2022, nothing is brought on record to show what steps Respondent No.1 took to cohabit or join company of the Petitioner.

13. Two LIC policies are produced on record, already purchased in the name of Respondent No. 2 daughter, of Rs. 10 Lakh total. Record shows that Respondent No. 1/wife has been permitted to withdraw amount of Rs. 5,43,000/- (deposited by Petitioner/husband) with interest during pendency of the petition.

14. In the aforesaid circumstances, there is no question of interfering in the amount of maintenance granted for the daughter or in the date from which Petitioner is directed to pay.

15. However, considering the advanced age of the parties, a possibility of even the Petitioner husband requiring money towards his own medical expenses cannot be ruled out. It is also a matter of fact that the Petitioner has resigned from the job, but said fact was not brought before the Family Court and the amount is decided without

disclosure affidavits on record.

16. Considering the overall circumstances of the case and advanced age of the parties, I do not find it appropriate to relegate them back to the Family Court for fresh round of litigation against each other.

17. In that view of the matter, taking cognizance of the subsequent event, in my considered overall view, the amount of maintenance granted to Respondent No.1 wife of Rs.15,000/- per month requires partial interference and requires reduction.

18. The Petition is therefore partially allowed and Rule is made partially absolute as under :

(A) Clause (2) of the impugned order is modified and Petitioner is directed to pay Rs.10,000/- per month to Respondent No.1-wife and Rs.8,000/- per month to Respondent No.2-daughter from 17.05.2014.

(B) Considering the admitted position that the Petitioner has not cleared the pending arrears as on today, the Petitioner is directed to pay to the Respondents the entire arrears, as per modified amount, within a period of 6 weeks from today.

19. **The petition is disposed of in the above terms.** No order as to costs.

20. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)