

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6697 OF 2017

Aniket Subhash Tupe	..	Petitioner
Vs.		
Piyusha Aniket Tupe	..	Respondent

Mr.Abhijit D.Sarwate for the petitioner.
Mr.Abhijeet A. Desai for the respondent.

CORAM : R.D. DHANUKA, J.
DATE : 4th December 2017

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order passed by the Family Court No.2, Pune dated 18th March 2017 directing the petitioner to pay interim maintenance @Rs.1,50,000/- per month to the respondent under Section 24 of the Hindu Marriage Act, 1955.

2. The respondent was already granted Rs.15,000/- per month as interim maintenance by the Judicial Magistrate, First Class, Pune in the application filed under the provisions of Protection of Women from Domestic Violence Act, 2005. In the impugned order dated 18th March 2017, the Family Court has allowed to stand adjusted the claim of Rs.15,000/- payable under the order dated 17th January 2016 passed by the Judicial Magistrate, First Class, Pune in Criminal M.A.No.717 of 2015.

3. With the assistance of the learned counsel appearing for the parties, I have perused the impugned order and also the annexures to the

petition. I have also perused various photographs annexed to the affidavit-in-reply including the photographs of marriage reception of the petitioner with the respondent. I have also perused the balance sheet and income tax returns of the petitioner for the assessment year 2011-12. A perusal of the income tax returns on record for the assessment year 2011-12 indicates that the petitioner was getting rental income of Rs.20,13,340/- and was also having income from other sources. The petitioner also has several assets reflected in the balance sheet from the assessment year 2011-12.

4. A perusal of the record prima facie indicates that the petitioner is living with lavish life. It is the case of the petitioner that the properties and cars being used by the petitioner were belonging to the parents of the petitioner and not the petitioner.

5. Learned counsel for the petitioner invited my attention to the list of expenses which was being incurred by the respondent while making an application for maintenance in the sum of Rs.2 lakh and above. He submits that all these expenses were inflated and were not the actual expenses being incurred by the respondent. He submits that income of the petitioner was not more than Rs.one lakh and thus the family Court could not have directed the petitioner to pay interim maintenance of Rs.1,50,000/- per month. He submits that the learned Judicial Magistrate, First Class, Pune has only awarded Rs.15,000/- per month to the respondent which is multiplied by ten times by the family Court under Section 24 of the Hindu Marriage Act, 1955.

6. Mr.Desai, learned counsel for the respondent, on the other hand, submits that the petitioner has not disclosed true and correct income of the petitioner. He submits that the petitioner has not reflected the true income in the income tax returns which are already on record of these proceedings. He submits that though the respondent had demanded interim maintenance more than Rs.2 lakh from the petitioner, the family Court has reasonably granted a sum of Rs.1,50,000/- in favour of his client. He submits that various findings rendered by the family Court about the properties held by the petitioner and about his standard of living are correct and do not warrant any interference by this Court under Article 227 of the Constitution of India.

7. A perusal of the record prima facie indicates that the petitioner has in fact being living with lavish life and income of the petitioner, even according to the petitioner, is more than Rs.one lakh even if accepted on the face value. The petitioner has also several assets as reflected in the balance sheet. In my view, the income tax returns cannot be considered as conclusive to decide the application for interim maintenance.

8. At the same time, I am also of the view that the award of interim maintenance of Rs.1,50,000/- granted by the family Court is exorbitant and without full justification. In my view, interest of justice would be met with if the petitioner is directed to pay interim maintenance in the sum of Rs.90,000/- per month from the date of application till the divorce proceedings are disposed of by the family Court. It is ordered accordingly. It is made clear that the said amount of Rs.90,000/- will be inclusive of the amount of Rs.15,000/- awarded by the learned Judicial

Magistrate, First Class, Pune in the proceedings filed under the provisions of Protection of Women from Domestic Violence Act, 2005.

9. The petitioner is directed to clear the arrears of maintenance within eight weeks from today. It is made clear that if the arrears of maintenance are not cleared by the petitioner within the time prescribed, the impugned order passed by the family Court to stand restored.

10. Writ petition is disposed of in aforesaid terms. No order as to costs.

R.D. DHANUKA, J.