

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 514/2016

(NAYAN SANTOSHRAO KAMBLE **VERSUS** PRANITA NAYAN KAMBLE)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. S.P. Kshirsagar, counsel for the petitioner.
 Mr. G.N. Khanzode, counsel for the respondent.

CORAM : REVATI MOHITE DERE, J.

DATE : DECEMBER 05, 2017.

Heard learned counsel for the parties.

By this petition, the petitioner-husband has impugned the order dated 17.03.2016 passed by the learned Judge, Family Court No.2, Nagpur by which the petitioner-husband was directed to pay interim maintenance of Rs.8,000/- per month to the respondent-wife from 01.03.2016 till the disposal of Petition No.E-395/2015.

Learned counsel for the petitioner-husband submitted that the learned Judge, Family Court had failed to take into consideration the petitioner's responsibility towards his parents and the fact, that the petitioner's mother is undergoing medical treatment. He submitted that it is the respondent-wife, who had left the matrimonial home and as such, the petitioner-husband was not liable to pay any maintenance. He further submitted that the respondent-wife had suppressed the fact, that she was working as a Computer Instructor, which information, the petitioner-husband had received under the Right To Information Act, 2005. He further submitted that after the said information under the RTI, the respondent-wife tendered her resignation in order to claim maintenance and to show that she was not in employment.

Learned counsel for the respondent-wife opposed the petition. He submitted that no interference was warranted in the impugned order dated 17.03.2016. He submitted that although the respondent-wife was working till February-2016, she was not in employment from March-2016 and hence, the trial Court had awarded interim maintenance from 01.03.2016 and not from the date of application.

Perused the papers as well as the impugned order. There are allegations and counter allegations by the parties against each other. Whether or not, the conduct of the petitioner-husband compelled the respondent-wife to leave the matrimonial home or whether the conduct of the respondent-wife was improper, is a matter which will be decided by the trial Court. A perusal of paragraph 14 of the impugned order shows that the petitioner-husband is serving as a Research Officer in Tribal Development Department of State Government and as per the salary slip for the month of September-2015, his gross monthly salary was Rs.53,115/- and after deduction of Rs.11,636/-, his net salary was Rs.41,479/-. Though, it is submitted by the learned counsel for the petitioner-husband that the parents of the petitioner-husband are dependent on him and that that require continuous medical treatment and that the petitioner is repaying the loan taken for the medical treatment of his mother and purchase of car, the petitioner-husband cannot absolve himself of his responsibility of maintaining his wife. In the facts of the case, it appears that the respondent-wife was in employment with Arunrao Kalode Mahavidyalaya from June-2015 to 29.02.2016 as a Computer Instructor. It is not in dispute that the respondent-wife tendered her resignation on 29.02.2016. It is also not in dispute that the respondent-wife has completed her graduation in Computer

Application. *Prima-facie*, it appears that resignation was tendered by the respondent-wife, as the application for grant of maintenance was pending. The conduct, of either the husbands or the wives giving up their jobs, in order to avoid payment of maintenance or to claim maintenance, needs to be deprecated. As the respondent-wife has tendered her resignation in February-2016, it appears that presently she is unemployed and hence, the learned Judge has awarded interim maintenance from 01.03.2016.

In the facts of the case, the petition is partly allowed. The amount of interim maintenance of Rs.8,000/- per month awarded to the respondent-wife by the learned Family Court is reduced to Rs.6,500/- per month. The order of the learned Family Court dated 17.03.2016 is modified accordingly. The petitioner-husband shall now pay interim maintenance of Rs.6,500/- per month from 01.03.2016 till the disposal of Petition No.E-395/2015. Rest of the conditions imposed by the learned Family Court *vide* order dated 17.03.2016 be complied with the petitioner-husband. The proceedings before the Family Court are expedited. The petition is accordingly allowed on the aforesaid terms.

All parties to act on the authenticated copy of this order.

JUDGE

APTE