

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

WRIT PETITION NO.11920 OF 2017

Shri. Dattatraya Balasaheb Kasabe Petitioner

Vs.

Sou. Pranita @ Arti Dattatraya Kasabe Respondents
& Anr.

Mr. G.N. Salunke i/by Mr. Umesh Kurund for Petitioner.

Mr. Ankush Saraf a/w Ms. Bhagyashri Vishal i/by Ravindra V. Sankpal
for Respondent nos. 1 and 2.

Coram : NITIN W. SAMBRE, J.

Date : 20th December 2019

P.C.:

1. The Family Court, Solapur vide order dated 3rd April, 2017 in exercise of powers under Section 125 of Code of Criminal Procedure has proceeded to award maintenance of Rs.4,000/- per month to the respondent-wife and Rs.2,000/- per month to the respondent-son. Feeling aggrieved, this petition.

2. The learned counsel for the petitioner would urge that the petitioner-husband has produced Exhibit 26, a salary slip, wherein the

gross salary is shown to be Rs.8629/- and after deduction, the net salary receivable was Rs.4361/- for the month of May, 2016. According to him, if the net salary receivable is Rs.4361/-, it is really difficult for the applicant-husband to cope-up with the liability of maintenance of Rs.6,000/-. Pursuant to the orders passed by this Court, the Petitioner-husband has produced on record salary slip, wherein he has admitted that gross salary receivable as on date is Rs.16,260/-, whereas net salary after deductions of P.F., P.F.A, F.A. is Rs.13,646/-. According to him, in view of aforesaid, the liability fastened towards payment of maintenance is disproportionate to the monthly income of applicant-husband.

3. The learned counsel for the respondents submits that the petitioner was given an opportunity to produce evidence in support of his claim of his monthly income, which he has failed to avail and that being so, the learned Family Court proceeded to award the reasonable maintenance.

4. According to him, the respondent no.1-wife is ready and willing to accept total maintenance of Rs.5,000/- i.e. Rs.3,500/- for

herself and Rs.1,500/- for son, keeping in mind, the gross salary of the present petitioner.

5. Since the aforesaid statement is made by the learned counsel for the respondent no.1-wife and son, on instructions, same is accepted.

6. In the aforesaid background, order of maintenance is modified as under :

“The Petitioner shall pay an amount of Rs.3,500/- per month to respondent no.1-wife and Rs.1,500/- per month to respondent no.2-son (total Rs.5,000/- per month) towards maintenance from the date of filing the petition before the Family Court”.

7. With above modification, the present petition stands partly allowed.

(NITIN W. SAMBRE, J.)