

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

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CRIMINAL WRIT PETITION NO. 4932 OF 2019

Mayank Khirwadkar Petitioner

Vs.

Ketaki Khirwadkar & Ors. Respondents

Mr. Saurav Patil a/w Mr. Pranav Pokale for Petitioner
Mr. Abhijit Sarwate a/w Ajinkya Udane for Respondent.
Smt. M.H. Mhatre, APP for State.

**Coram : NITIN W. SAMBRE, J.
Date : 23rd OCTOBER, 2020**

P.C.:

1. Heard.
2. Rule.
3. Respective counsel waives notice.
4. It is brought to my notice that the parties to the petition are highly qualified. The present petitioner-husband is earning around Rs.1,30,000/- per month, whereas it is claimed that the respondent-wife has completed her Bachelor of Engineering and M.B.A., however, she claims that she is not gainfully employed.

5. The Family Court at Bangalore in a proceedings initiated by the wife under Section 24 of Hindu Marriage Act has granted interim maintenance of Rs.20,000/- per month and the Family Court at Pune in exercise of powers under Section 125 of Code of Criminal Procedure has granted maintenance of Rs. 20,000/- per month vide impugned order dated 29th March, 2019.

6. The contention of the learned counsel for the petitioner-husband is that the respondent-wife is highly qualified and that the Family Court at Bangalore under Section 24 of Hindu Marriage Act has already granted maintenance of Rs.20,000/- per month..

7. According to him, in addition to above, an award of maintenance under Section 125 Cr.P.C. is exorbitant.

8. While countering the submissions, learned counsel for the respondent would urge that in addition to remedy under Section 24 of Hindu Marriage Act, remedy under Section 125 of Cr.P.C. can always be

taken recourse to by the non applicant-wife. He would urge that the respondent-wife as on date is not gainfully employed and that being so she has every right to claim maintenance from the petitioner-husband, who is earning Rs.1,30,000/- per month.

9. Considered rival submissions.

10. In my opinion, once it is not disputed that the respondent-wife is highly qualified i.e. Bachelor of Engineering and M.B.A., it is always expected from her to put efforts for getting employment and not to sit idle and survive on the maintenance receivable from the petitioner-husband. Atleast the respondent should have demonstrated as to the efforts for getting employment made by her.

11. The Family Court at Bangalore has already granted maintenance @ Rs.20,000/- per month, as such award of maintenance at the rate of Rs.20,000/- in the aforesaid background under Section 125 Cr.P.C. can be termed as exorbitant.

12. As such, there shall be stay to the impugned order dated 29th March, 2019 to the extent that the Petitioner-husband shall pay maintenance @10,000/- per month to the respondent-wife pursuant to the provisions of Section 125 Cr.PC. and shall continue to pay the same till the decision of the petition.

13. The petition stands disposed of in above terms.

(NITIN W. SAMBRE, J.)