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

WRIT PETITION NO. 11914 OF 2019

Mr. Sandeep Khemraj Todi

....Petitioner

V/s.

Mrs. Neha Sandeep Todi

.....Respondent

Ms. Swapana Kode for the Petitioner
None for the Respondent

CORAM : NITIN W. SAMBRE, J.

DATE: NOVEMBER 27, 2020.

P.C.:

1] The Petitioner has questioned the order dated 06/02/2019 passed by the Family Court, Mumbai awarding maintenance at the rate of Rs. 50,000/- per month to Respondent-wife and Rs. 15,000/- each to both sons, total of Rs. 80,000/- per month in exercise of powers under Section 36 and 37 of Special Marriage Act.

2] The claim of present Petitioner is parties are residing separately

since October 2016, as the Respondent has deserted him. According to Petitioner, Respondent was earlier earning Rs. 1,00,000/- per month towards her salary. According to him, after locking the house owned by the Petitioner-husband Respondent has shifted to Kolkata with children. Learned counsel then would invite attention of this Court to the fact that the Petitioner is presently studying law and has no source of income. She would further claim that Petitioner is paying certain sum to Respondent towards the daily requirement. Further further contention is, an Application is initiated by the Petitioner under Section 340 of the Code of Criminal Procedure, 1973 ['Cr.P.C.' for short] as the Respondent has practiced perjury which is pending adjudication. In addition to above, it is also claimed that there are about 10 miscellaneous applications pending with various prayers which are not yet decided by the Court below. As such, Petitioner has sought remand of the matter with direction that Application for perjury be decided first and thereafter present Application for maintenance.

3] I have considered the aforesaid submissions. I see hardly any reason to cause interference in the order impugned, particularly on the ground of pendency of an Application moved under Section 340 of Cr.P.C. at the behest of the Petitioner against the Respondent, as the very object of provisions as regards maintenance will be frustrated in case if the submission of the Petitioner are accepted that unless the Application of the Petitioner is decided, no order of maintenance can be ordered.

4] The Judge of the Family Court while passing the order impugned in regard to grant of interim maintenance, has considered the expenses incurred by the son Aditya and Aryan towards tuition fees, annual school fees and transportation. Copy of the audit report of Maharashtra Organo Metallic Catalysts Pvt. Ltd. of which the present Petitioner is a director was also taken into account. The income derived by the Petitioner from the said company, account statement of ICICI Bank of the Petitioner for the year 2017 was also taken into account.

5] Based on the various sources of the Petitioner, Family Court has proceeded to award the maintenance which appears to be just and reasonable, having regard to lifestyle spent by the Petitioner from his income as is reflected in the order impugned.

6] I hardly see any illegality which warrants interference in extraordinary jurisdiction in the order impugned. Petition as such fails, stands dismissed.

[NITIN W. SAMBRE, J.]