

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 124 OF 2020**

Anil Baburao Gaikwad .. Petitioner
Versus
The State of Maharashtra & Anr .. Respondents

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Mr. Sushil Upadhyay i/b Mr.A.M. Saraogi for the petitioner.

CORAM: BHARATI DANGRE, J.

DATED : 24th FEBRUARY, 2020.

P.C:-

1 The present petition challenges the order of 7th October 2019 passed by the Family Court, Mumbai at Bandra thereby allowing the application preferred under Section 125 of the Code of Criminal Procedure. By the impugned order dated 17th October 2019, the application at Exhibit-19 filed by the respondent (wife) has been allowed and the petitioner is directed to pay interim maintenance at the rate of Rs.5,000/- per month to the respondent with effect from 3rd October 2018.

2 The grounds on which the said order is assailed are to be found in the petition and in particular in ground nos.A to K.

3 Meaningfully read through the said averments, the petitioner aim to convey that he has no financial means to pay the amount of maintenance and the impugned order directing payment of Rs.5,000/- per month therefore cannot be sustained.

4 A feeble attempt is made to demonstrate that the maintenance application claims maintenance for a minor daughter and this is sought to be contrasted by specific averments to the effect that the marriage of the petitioner with the respondent was solemnized on 19th April 2015 and she left the company of the petitioner on 22nd August 2015 and there is no mention of daughter been born out of the wedlock, in other proceedings.

 In any contingency, the said ground is of no relevance since the impugned order do not make a reference to the minor child and the amount of Rs.5,000/- has been granted towards maintenance of the wife only.

5 The order takes into consideration the earning capacity of the petitioner and it is an interim order premised on the point that there was a neglect to maintain the wife. In such circumstances, the aforesaid order do not call for any interference

since it has awarded maintenance keeping in mind the tone and tenor of Section 125 of the Code of Criminal Procedure.

6 Writ Petition is dismissed.

SMT. BHARATI DANGRE, J