

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 1971 OF 2022

(Nitin s/o Prithviraj Thaware ..vs.. Sau. Sonali w/o Nitin Thaware)

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

Court's or Judge's orders

Mr. Y.S. Gorle, Counsel for the petitioner.

CORAM : ROHIT B. DEO, J.

DATED : 13-04-2022

The petitioner-husband is assailing an order of interim maintenance rendered by the learned Principal Judge, Family Court, Nagpur in petition filed by the respondent-wife seeking dissolution of marriage, whereby the husband is directed to pay the wife monthly interim maintenance of Rs.10,000/- (Rupees Ten Thousand).

2. The wife is complaining that she was harassed and ill-treated by her husband and the marital family. She alleges that the husband is well to do, he owns residential building admeasuring 4000 square feet in Bhawani Ward, Lakhandur and has a prosperous wholesale scrap business. According to the wife, the husband has various other business in different names.

3. The husband denied the allegations generally and claimed in the disclosure affidavit that he is engaged in the business of travel and monthly income is Rs.8,000/-

(Rupees Eight Thousand). It is admitted that the husband owns a four wheeler and two wheeler. The husband further claimed, the wife was working with Vijay Electronic and eared Rs.4,000/- (Rupees Four Thousand) per month from 13-3-2018 to 29-1-2021.

4. The learned Judge of the Family Court *prima facie* held that the husband is into travel business and the estimated income would be between Rs.30,000/- (Rupees Thirty Thousand) to Rs.40,000/- (Rupees Forty Thousand) per month. The learned Judge presumably ventured to make an educated guess or estimate since the husband did not file on record the Income Tax Returns or for that matter any other document supporting the assertion that he earns Rs.8,000/- (Rupees Eight Thousand) per month from the business.

5. In exercise of writ jurisdiction, I am not inclined to interfere with the order of interim maintenance.

6. It is well settled that a limited enquiry would be expected at the stage of considering an application for interim maintenance. If the Court finds, that *prima facie* the wife is not in a position to maintain herself, order of interim maintenance must logically follow. In the present matter, there is nothing to show that the wife is actually earning. I see no error, either on the aspect of

entitlement or then on the quantum, as would impel me to exercise writ jurisdiction.

7. The learned Counsel for the petitioner points out that the wife has also claimed maintenance in separate proceedings instituted under the Protection of Women from Domestic Violence Act.

8. If that be so, obviously the principles articulated by the Hon'ble Supreme Court in ***Rajnish v. Neha and Another, (2012) 2 SC 324*** shall be applied by the Court which deals with the subsequent application for maintenance.

9. Subject to the observations supra, the petition is dismissed.

JUDGE

adgokar