

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

**CRIMINAL WRIT PETITION NO. 74 OF 2022**

Prashant s/o Vinayak Deshmukh, Aged  
33 years, Occu : Private Service,  
Permanent R/o Drugwada, Tah. Ashti,  
Distt. Wardha.

... PETITIONER.

**VERSUS**

1. Monali w/o Prashant Deshmukh,  
Aged about 29 years, Occ.  
Private Job.
2. Vedant Prashant Deshmukh,  
Age – 1 year minor through his  
natural guardian – Mother i.e.  
Respondent No.1. R/o C/o  
Ganeshrao Jane, Khabit, Tah.  
Ashti, Dist. Wardha.

... **RESPONDENTS.**

---

Shri Mahesh Rai, Advocate for the petitioner.  
Shri U.J. Deshpande, Advocate for respondent nos. 1 and 2.

---

CORAM : VINAY JOSHI, J.  
DATED. : 06.07.2022.

**ORAL JUDGMENT :**

**RULE.** Rule is made returnable forthwith.

2. Heard finally by consent of both the parties.
3. The petitioner-husband has challenged the order of interim maintenance, which has been enhanced to the tune of Rs.10,000/- per month from Rs.5,000/- per month by the Appellate Court vide order dated 07.12.2021. The respondent-wife has filed proceedings in the Court of Magistrate seeking multiple reliefs under the provisions of the Protection of Women from Domestic Violence Act, 2005 (for short 'the D.V. Act'). Having regard to the *prima facie* case, the learned Magistrate has granted interim maintenance at the rate of Rs.5,000/- per month for the respondent-wife and her minor son. Being aggrieved by the quantum of interim maintenance, the wife has filed appeal in terms of Section 29 of the D.V. Act, in which the learned Sessions Judge has enhanced the maintenance amount at the rate of

Rs.10,000/- per month. Now, this is a turn of the husband to come to this Court questioning the enhanced quantum of maintenance.

4. The initial order of Magistrate was not challenged by the husband therefore, I am not inclined to see the other aspects than the quantum of maintenance. Moreover, interim order is under challenge therefore, the only aspect of quantum needs scrutiny. The Trial Court by considering the husband's salaried income to the tune of Rs.17,000/- to Rs.18,000/- per month has fixed the interim quantum at the rate of Rs.5,000/- per month. The Appellate Court while enhancing the amount of maintenance has considered the salary certificate showing takehome salary of Rs.30,000/-, besides some account statements. Pertinent to note that, the said salary certificate was of the father-in-law of the lady and therefore, it cannot be taken into account while fixing the quantum.

5. Certainly, from the said salary certificate, it can be held that no one is dependent on the income of the husband. I have gone through the bank account of the husband which shows that

his salaried income is near-about Rs.17,000/- per month. On the other hand, the claimants are the wife and the son aged two years. Certainly, the wife is in need of sufficient amount for maintaining herself as well as her minor child.

6. Having regard to the salaried income of the husband, the interim amount of maintenance would be Rs.7,000/- per month. It would be just and reasonable in the facts and circumstances of the case. In view of that, petition stands partly allowed. The impugned order dated 07.12.2021 passed by the Additional Sessions Judge, Wardha in Criminal Appeal No. 24 of 2021, is modified to that extent only.

7. The petition stands disposed of in the above terms.

**(VINAY JOSHI, J.)**

*Trupti*