

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

937 CRIMINAL WRIT PETITION NO.1324 OF 2022

**PRASHANT DATTATRYA THORAT
VERSUS
DNYANADA PRASHANT THORAT AND ANOTHER**

Ms. Priyanka P. Shinde h/f. Mr. Prashant B. Jadhav, Advocate for the petitioner.
Mrs. Rashmi S. Kulkarni, Advocate for respondent Nos. 1 and 2.

**CORAM : KISHORE C. SANT, J.
DATED : 05.01.2023**

PC :-

01. Heard learned Advocates for the parties. The petition is filed challenging order dated 16.10.2021 passed by the learned Judge, Family Court, Jalgaon, directing the petitioner to pay interim maintenance at the rate of Rs.7000/- per month to wife and Rs.3000/- per month to child. It is submission of the petitioner-husband that though he is getting Rs.47,488/- towards his salary, however, considering his expenses and liabilities, the amount of maintenance is exorbitant. Second ground is that the wife has suppressed the fact that she is earning and she is having a job. Learned Advocate for the petitioner has invited attention of this Court to para No.13 of

the application filed by the wife before the Family Court, wherein she has specifically stated that she is not doing any job and she is not having any business and she is totally depending upon the husband. Learned Advocate further invited attention of this Court to the proforma submitted by the wife in the Family Court, Jalgaon, where she on her own shown her net income to be Rs.13,900/- and gross income to be Rs.21,000/- per month and therefore she would not be entitled to receive maintenance.

02. Learned Advocate for the respondent vehemently opposed the petition. It is submitted that at the time of filing of the petition, the wife was not earning and she was not having job. It is only because of the financial constraint, now she is forced to work from home. She has submitted that respondent No.2-child is born premature and to nurture and to take care, her father was required to take loan of Rs.10 lakhs. Now that is also a liability on her as she is required to repay the loan; whereas no one is depending upon the petitioner-husband. His father is also a person retired from service and getting pension. Even if it was interim order, the Court ought to have considered the standard of living with which the wife is expected to live with her husband. Merely because the wife is now earning, will not be a sufficient

reason to dislodge her claim of maintenance. She further states that the petitioner is not entitled for any equitable relief as he has not obeyed the order passed by this Court on 17.10.2022, where the petitioner-husband is directed to pay maintenance at the rate of Rs.5000/- per month.

03. It is seen that the interim order was passed by the Family Court on 16.10.2021 and since then there was no interim relief till 17.10.2022. Still there is nothing on record to show that husband has made any bonafide efforts to pay the amount of maintenance as per directions of the learned Family Court. It was at least expected to obey the order passed by this Court dated 17.10.2022.

04. Since, this Court was pleased to pass interim order, directing to pay Rs.5000/- per month, this Court directs that till the decision of the petition before the Family Court, the petitioner shall pay Rs.5000/- (Rupees Five Thousand) per month to respondent No.1-wife and Rs.2500/- (Rupees Two Thousand Five Hundred) to respondent No.2-son, with directions to the Family Court to decide the main proceeding – petition No. E-11 of 2021, as early as possible and preferably within six months from today. This order

shall be subject to clearance of all the arrears by the petitioner-husband within a period of four weeks from today.

05. With these directions, the writ petition is disposed off.

[KISHORE C. SANT, J.]