

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL WRIT PETITION NO.1546 OF 2022
WITH APPLN/3308/2023 IN WP/1546/2022**

AVINASH VITTHAL MACHPALLE
VERSUS
YOGITA W/O. AVINASH MACHPALLE AND ANOTHER

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Mr. T. M. Venjane, Advocate for the Applicant.

Mr. V. D. Gunale, Advocate for Respondent Nos.1 and 2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATE : 04th SEPTEMBER, 2023.**

PER COURT:-

1. By this writ petition, the petitioner/original respondent impugns the order dated 01.10.2022 passed by the Judge, Family Court, Latur below Exhibit-29 in Petition No.E-216-2021, by which he is directed to pay interim maintenance to the respondents/original applicants.

2. Mr. Venjane, learned Advocate appearing for the petitioner would submit that the application seeking interim maintenance was filed by the respondents on or about 21.07.2022. However, the Family Court granted interim maintenance from the date of original application with effected from 29.10.2021. He would further submit that the petitioner has given details about his income and expenditures that shows that he requires to spent huge amount towards medical expenses of his parents. He would further submit that the proceeding for divorce filed by the petitioner is pending before the Family Court at Nashik. In that view of the matter, the Family Court could not have passed the order directing payment of huge interim maintenance.

3. The learned Advocate appearing for the respondents however, submits that the petitioner has failed to maintain the

respondents. There is no dispute regarding matrimonial relationship, so also relationship between respondent no.2 and the petitioner. He would submit that admittedly the petitioner is in service of HDFC General Insurance Company and earning Rs.35,000/- per month. Looking to his income, the fair amount of maintenance is awarded by the Family Court. Therefore, he submits that there is no merit in the writ petition and same may be dismissed.

4. Having considered the submissions advanced, it is not in dispute that respondent no.1 is legally wedded wife of the petitioner, so also respondent no.2 is born out of such matrimonial relationship. There appears to be matrimonial discord between the parties for various reasons and application for divorce has been filed by the husband before Family Court at Nashik and same is pending. In this background, there cannot be dispute that the respondents would be entitled for interim maintenance subject to final adjudication of their rights. However, at this stage instead of entering into the merits of the matter and the factual aspects, it would be appropriate to direct disposal of the application filed under Section 125 of the Code of Criminal Procedure within a period of six months from the date of receipt of writ of this order. (It is made clear that aforesaid observation are *prima facie* and made only for disposal of this Writ Petition.)

5. It is pointed out that the petitioner has deposited an amount of Rs.60,000/- in pursuance of interim order passed by this Court. The amount deposited by the petitioner can be disbursed in favour of the respondents and the petitioner can be directed to deposit monthly maintenance amount as per impugned order till disposal of the main application. In view of the aforesaid

observations, following order is passed:

ORDER

- a. Criminal Writ Petition is partly allowed.
 - b. The petitioner is directed to pay interim maintenance at the rate of Rs.6000/- per month to respondent no.1 and Rs.3000/- per month to respondent no.2 from the date of the impugned order i.e. 01.10.2022 passed by the Family Court. The amount of Rs.60,000/- deposited by the petitioner shall be adjusted towards arrears of maintenance.
 - c. The Family Court is requested to decide the Petition No.E-216-2021 for maintenance within a period of six months.
 - d. The parties shall co-operate for early disposal of the application and shall not ask adjournment unless backed by strong reasons.
 - e. The amount deposited by the petitioner be transferred to the Family Court. On transfer of the amount, the respondents are at liberty to withdraw the same.
 - f. All contentions of the parties are kept open.
6. Criminal Application No.3308 of 2023 filed on behalf of the respondents is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE