

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

45 CRIMINAL WRIT PETITION NO.1518 OF 2022

**PRASHANT RANGNATH MORE AND OTHERS
VERSUS
PRIYA PRASHANT MORE**

Mr. Balbhim R.Kedar, Advocate for the petitioner in wp/1518/22
Mr. D. A. Karnik, Advocate h/f Mr. Vikas Bhale, Advocate for the
petitioner wp/284/22
Mr. B. R. Warma, Advocate for the respondent

CORAM : KISHORE C. SANT, J.

DATE : 06th MARCH, 2023

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1. Heard the learned advocates for the parties
extensively.

2. A challenge in this petition is to an order dated 28-
03-2022 passed by the learned JMFC, Aurangabad in PWDVA
No. 23/2021 below Exh.01, thereby granting interim
maintenance of Rs.20,000/- to the respondent under Domestic
Violence Act and confirmation of the same by the learned
Additional Sessions Judge, Aurangabad in PWDVA No. 67/2022

by judgment and order dated 21-06-2022.

3. The main contention of the petitioner-husband is that though his salary is considered to be Rs.75,000/- per month while granting interim maintenance in fact after deductions he receives hardly Rs.1650 to 1725/- in hand and for that reason he prays for rejection of the maintenance order. Though the petitioner has now filed statement of income and liability in the court in view of the judgment in Rajnesh Vs Neha now he has filed the salary statement on record which shows that he is receiving salary of Rs.75,218/-. However, by deduction he is received only Rs.25,000. He further submitted on record salary slip for the month of August, 2022 showing that he gets only Rs.1652.10/-. However, looking to the statement it is seen that his gross salary is Rs.84,176.05/-. Compulsory deduction are only Rs.800/- towards professional tax, Rs.1080/- towards rent, Rs.400/- towards fee SC/ST Welfare Association, Rs.6174/- towards TDS, Rs. 7100/- towards contributory pension scheme other deductions are involuntary deductions. Therefore, it

cannot be said that husband is not in a position to pay the interim maintenance to the wife. Both the courts below have also considered his income to be Rs.90,000/- per month and considering that income amount of maintenance is held to be reasonable. There are other dependents in the family including parents, two brother who are taking education and two sisters. However, that cannot be considered when maintenance to wife is legal liability.

4. Learned advocate for the respondents points out that even the father of the petitioner was in service and has retired from service with all the benefits.

5. Learned advocate for the petitioner submits that father of the petitioner hardly gets Rs.3,500/- towards pension. However, there is no statement as regards the other emoluments he would have received at the time of retirement.

6. Learned advocate for the petitioner relied upon the

judgment reported in the case of *Shashank Mohanlal Rangari Vs Sau Pallavi W/o. Shashank Rangari in Criminal Writ Petition No.150 of 2017* of this court at Nagpur wherein the court had reduced the amount of maintenance considering the facts of that case. Another judgment he relied upon in the case of *Gunwant C. Patel Vs Meena G. Patel* reported in 1984 (1) DMS 92 decided in 1983. Even at that time maintenance was reduced from Rs.8000/- to Rs.5000/-. The learned advocate for the petitioner submits that in that case it was shown that income of the husband is Rs.6 lakhs per year and in that case it was maintenance granted was only Rs.5000/-. In this case, considering salary is more than Rs.9 lakhs per year. However, now it is well settled that reasonable amount of maintenance would be 25% to 30% of the salary.

7. Considering this aspect this court finds that no illegalities are committed by both the courts below. One more factor that needs to be taken into consideration that order is only interim order and for that reason this court has not exercise

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jurisdiction. the petition therefore, deserves to be dismissed. Accordingly the criminal writ petition No. 1518/2022 stands dismissed.

8. List the criminal writ petition No. 284/2022 on 13-03-2023 as a last chance, for taking instruction for withdrawal.

[KISHORE C. SANT, J.]

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