

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****NAGPUR BENCH : NAGPUR****CRIMINAL WRIT PETITION NO.279/2023**

Shashikant s/o Veerantappa Gajjari .Vs. Mrunal w/o Shashikant Gajjari

WITH**CRIMINAL WRIT PETITION NO.529/2023**

Arnav s/o Shashikant Gajjari .Vs. Shashikant s/o Virantappa Gajjari

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

Court's or Judge's orders

Mr. S. Paliwal, Advocate for petitioner in W. P. No.279/2023

Ms A. S. Athalye, Advocate for respondent.

Mr. V. Awchat, Advocate for petitioner in W. P. No.529/2023

CORAM : ANIL L. PANSARE, J.

DATE : 25.09.2023

The petitioner in Writ Petition No.279/2023 is husband and petitioner in Writ Petition No.529/2023, the minor son through her mother. Both have challenged the order dated 13.02.2023 passed below Exh.-12 by the learned Judge, Family Court, Yavatmal in Petition No.E-175/2021, thereby granting interim maintenance to the minor child to the tune of Rs.25,000/- per month from the date of filing of application i.e. from 13.09.2022.

The grievance of husband is that this interim maintenance ought not to have been granted. As against, the grievance of wife is that the interim maintenance granted is not adequate. The wife is thus seeking enhancement in the interim maintenance.

Learned counsel for the husband has invited my attention to the few facts. According to him, the application under Section 125 of the Criminal Procedure Code, 1973, has been filed on 29.08.2022. Prior thereto, in the proceedings filed by the husband seeking custody of child

in Petition No.141/2019 on 28/12/2021, he sought access to the child through WhatsApp call. The wife has, on 31.10.222, filed her say opposing application on the ground that the child is studying in Potdar International School, Mumbai and that the husband has never ever helped the wife financially nor has taken any efforts. The wife further states that she herself is capable financially and well to do.

Learned Judge, Family Court, Yavatmal, vide order dated 03.12.2022, allowed the application filed by the husband partly in the proceedings seeking custody of child and permitted the husband to have virtual access to the child by way of video-call on every second and fourth Sunday for 15 minutes between 07:00 to 07:30 p.m. Counsel for the husband submits that this order has not been complied with.

He further submits that it is not possible that a child of 7 years is studying at Mumbai and the mother is residing at Yavatmal. Such an argument has been put forth on the ground that the wife had filed Misc. Civil Application No.104/2022 before this Court under Section 407 of the Criminal Procedure Code, 1973 seeking transfer of the Petition A-595/2018, pending before the Family Court, Nagpur to Family Court, Yavatmal, on the ground that the wife is employed at Mumbai but is working from home having permanent address at Yavatmal.

I do not find any substance in aforesaid argument inasmuch as it is not only possible but recent trend indicates that the children are admitted to the boarding

schools and parents are residing at a far distance.

The focus should be to challenge to the interim maintenance granted in favour of the husband.

In context of the above, I have gone through the statement of assets and liabilities of both the parties. The wife's monthly income is Rs.3,16,253/-. The salary after deduction is not mentioned. As against, the monthly salary of husband is Rs.2,00,000/- and after deductions, he is getting salary of Rs.1,28,774/-.

The Family Court, having considered, the material before it, was of the view that the monthly expenses required for a child is around Rs.65,000/- and considering the income of the husband and the wife, the proportionate share has been ordered to be borne by respective parties. Accordingly, the husband has been directed to pay Rs.25,000/- per month and the mother will have to bear balance amount of Rs.40,000/- per month.

I do not find this approach to be unreasonable so as to warrant interference under Article 227 of the Constitution of India. There is no merit in the petitions. The petitions are dismissed.

The learned Judge of the Family Court is requested to expedite hearing and dispose of the application pending before it. Parties to cooperate with the Family Court for expeditious disposal of the matter.

(Anil L. Pansare, J.)