

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 6066 OF 2019

Sumedh Mukesh Walde __ Vs. __ Sneha Sumedh Walde

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

Court's or Judge's orders

Mr. V.S.Mishra, Advocate for petitioner
Mr. R.K.Borkar, Advocate for Respondent

CORAM : AVINASH G. GHAROTE, J.
DATE : 09/03/2023

1] Heard Mr. Mishra, learned counsel for the petitioner and Mr. Borkar, learned counsel for the respondent.

2] The petition challenges the order dated 30.11.2018 passed by the learned Civil Judge, Senior Division, Gondia (pg.36) granting maintenance of Rs.7,000/- per month to the respondent as maintenance pendent lite from the date of the application. It is not in dispute that subsequent to the filing of the petition, the proceedings filed by the respondent under Section 125 of Cr.PC have culminated into a judgment dated 2.2.2022, whereunder the respondent has been granted maintenance at the rate of Rs.7,000/- p.m.

3] In view of the dictum laid by the Hon'ble Apex Court in **Rajnesh Vrs. Neha, AIR 2021 SC 569**, the quantum of maintenance awarded to the respondent under Section 125 Cr.PC will have to be taken into consideration for the purpose of deciding the present petition.

4] The total emoluments of the petitioner as is reflected from the salary statement for the month of February, 2023, are Rs.61,728/-, out of which there are deductions as indicated therein, making a total take home salary as Rs.22,755/-. Considering the fact that the deductions indicated in the salary slip are for the benefit of the petitioner, and considering that the respondent has already been awarded Rs. 7,000/- as maintenance in Section 125 Cr.PC. proceedings, it would be appropriate to award maintenance at the rate of Rs.3500/- per month to the respondent, in addition to what has been awarded in the proceedings under Section 125 Cr.PC. The impugned order is therefore hereby modified by setting aside the order dated 30.11.2018 and instead granting a maintenance of Rs. 3,500/- per month to the respondent from the date of the application till the decision of the Hindu Marriage Petition, in addition to what has been

awarded by the learned Judicial Magistrate, First Class, Gondia, in Criminal Case No. 625/2017, decided on 2.2.2022.

5] The petition is accordingly partly allowed. No costs.

JUDGE

Rvjalit