



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

911 CRIMINAL WRIT PETITION NO. 568 OF 2023

IRFAN KHAN S/O. RAHEEM KHAN PATHAN

VERSUS

RABIYA BEGUM W/O. IRFAN KHAN PATHAN

...

Advocate for the Petitioner : Mr. Shaikh Wajeed Ahmed

Advocate for Respondent : Mr. Jay Vee (appointed)

...

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th August, 2024.

P.C.:

1. By this writ petition, the petitioner is challenging the order passed below Exhibit-7 by Judge, Family Court, Nanded in Petition E-74 of 2020 thereby partly granting the interim maintenance to the respondents.

2. It is contention of the learned counsel for the petitioner that the petitioner is 8th fail whereas the respondent is Commerce Graduate. After marriage, the respondent stayed with the petitioner only for four months. Thereafter, she left herself the company of the petitioner. But this fact is not considered by the Family Court while passing the interim order. When the respondent herself deserted the company of the petitioner as per the provisions of the law, she is not entitled for maintenance. Moreover, the petitioner has other responsibilities. He has to maintain his old parents and unmarried sisters. The interim maintenance amount of Rs.5,000/- granted by the Family Court is on

higher side, it be reduced and requested to allow the writ petition.

3. It is contention of the learned counsel for the respondent-wife that the respondent has no source of income. Her father has passed away. She depends on the income of her mother. The petitioner has not denied the marriage with the respondent. The petitioner has responsibility to maintain the respondent. The Family Court has considered all these aspects and on that basis the interim maintenance is granted. No interference is required in it and requested to dismiss the petition.

4. I have heard both the learned counsel. Perused the interim order passed by the Judge, Family Court, Nanded. While passing the order, the learned Judge, Family Court has observed that the petitioner has not denied the matrimonial relations with the respondent. The petitioner has responsibility to maintain the respondent. The respondent has no source of income. On that ground the learned Judge has passed the interim order. I do not find infirmity in it. In my view, the learned Judge has passed the interim maintenance. The defence taken by the petitioner that he has no source of income and he has responsibility to maintain other family members has to be proved by way of evidence. At this prima facie stage, it can not be decided. If the contentions of both the parties are kept open, it would suffice and I pass the following order :-

ORDER

- (i) The writ petition is dismissed.
- (ii) All the contentions of both the parties are kept open.
- (iii) The learned Family Court is requested to dispose of the pending main maintenance petition as early as possible.
- (iv) Fees of Rs.10,000/- be paid to Mr.Jay Vee, learned counsel appointed to represent the cause of respondent through the High Court Legal Services Sub-Committee, Aurangabad.

[SHIVKUMAR DIGE, J.]

sga