



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

905 CRIMINAL WRIT PETITION NO. 1242 OF 2023

DR.CHANDRAKANT MADHUKAR PATIL

VERSUS

DR.SONALI CHANDRAKANT INGALE PATIL AND ANOTHER

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Advocate for the Petitioner : Mr.Keshav Borhade i/b Ms.Sarin Karishma
Sanjay

Advocate for Respondent nos.1 and 2 : Mr. D.P. Palodkar

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CORAM : **SHIVKUMAR DIGE, J.**

DATE : 4th July, 2024.

P.C.:

1. By this writ petition, the petitioner is challenging the order of interim maintenance dated 7th June, 2023 passed by learned Judge, Family Court, Nanded and seeks to quash and set aside the findings of the learned trial Court.

2. It is contention of learned counsel for the petitioner that the petitioner is Bachelor of Ayurvedic Medicine and Surgery and is a registered medical practitioner under Maharashtra Council of Indian Medicine and doing his practice in Amalner, Dist. Jalgaon. The learned counsel further submitted that there is no much scope of ayurvedic practice in Amalner as there are various allopathic doctors available in Amalner, Dist. Jalgaon and the petitioner is hardly earning his livelihood doing general medical practice. The petitioner is earning Rs.25,000/- to Rs.30,000/- per month owing to his various health issues and available competitors in his medical practice. The learned

counsel further submitted that respondent no.1 is a Bachelor of Homeopathic Medicines and Surgery graduate and is a registered medical practitioner. She is able to earn her livelihood, but for creating false record of unemployment, she is sitting idle. The learned counsel further submitted that marriage between the petitioner and respondent no.1 was solemnized on 8th December, 2013. Out of the said wedlock, boy child was born on 4th December, 2015. The learned counsel further submitted that respondent no.1 herself left the matrimonial house of the petitioner and respondent no.2 born at the parental house of respondent no.1. The learned counsel further submitted that the petitioner is ready to cohabit with respondent no.1 and ready to take responsibility of respondent no.2, but respondent no.1 is not ready for cohabitation. The learned counsel further submitted that after seven years of separation, respondent no.1 has filed application for maintenance for herself and respondent no.2 only to harass the petitioner. The trial Court has not considered this fact and without considering the evidence on record has awarded Rs.10,000/- per month for respondent no.1 and Rs.6,000/- to respondent no.2, which is on higher side. The learned counsel further submitted that the trial Court ought to have considered the financial condition of the petitioner and the education qualification of respondent no.1 but these facts are not considered. The learned counsel further submitted that the trial Court has not considered the provisions under section 125 (4) of the

Criminal Procedure Code, hence requested to allow the petition.

3. It is contention of learned counsel for the respondents that the petitioner expelled respondent no.1 from his house. Respondent no.1 is staying with her parents. She is at mercy of her parents. Though she has qualified, however, she is not doing any job and she has to take shelter of her parents. She has no source of income. The petitioner is well known doctor in Amalner city and is earning more than Rs.50,000/- per month. Though the petitioner is saying about not following provisions under section 125(4) of the Criminal Procedure Code, the evidence is needed for it. The Trial Court has considered all these aspects and no interference is warranted in it, hence requested to reject the application.

4. I have heard both the learned counsel. Perused the impugned order. While granting interim maintenance, the trial Court has observed that respondent no.2 is taking education. Considering the current hike in prices and expenses of education, the trial Court has passed the impugned order. I do not find infirmity in it. In my view, the trial Court has granted interim maintenance to respondent nos.1 and 2. Yet the trial Court has not finally decided the maintenance application. On the basis of arguments of both the sides and on the basis of the documents produced on record, the trial Court has passed the impugned order. The petitioner can put his contentions at the time of hearing of main application to prove his side but at prima facie stage,

no case is made out to interfere in the impugned order. In view of the above, 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 trial Court shall consider pending maintenance application filed by the respondent no.1 on its own merit.
- (iv) The trial Court shall not be influenced by the observations made hereinabove by this Court while deciding the main application under section 125 of the Criminal Procedure Code.
- (v) The petitioner shall deposit 50% outstanding amount of arrears of maintenance within two months and remaining 50% within four months from today before the trial Court.
- (vi) The trial Court is requested to dispose of the pending maintenance application as early as possible.
- (vii) Both the parties shall not take adjournment without any reasonable ground.

[SHIVKUMAR DIGE, J.]