



Judgment

23 wp 855.24

1

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

CRIMINAL WRIT PETITION NO. 855/2024

Mohit s/o Hariram Prachwani.
aged about 29 years, Occupation
Labour, R/o Sindhi Camp,
Tahsil Road, Karanja Lad,
District Washim

... **PETITIONER**
(Ori. Respondent)

VERSUS

Smt. Anjali @ Yashi w/o Mohit
Prachwani, Aged about 26 years,
Occupation : Household, R/o
C/o- Shri. Ashok Kumar Barani,
Hudco. M.I.G. B. no. 11. Block
No. 163, Jaripatka Main Road,
Nagpur.

... **RESPONDENTS**
(Ori. Petitioner)

Mr. Nitin L. Jaiswal, Advocate for petitioner.
Mr. Y. B. Mandpe, Advocate for respondent-sole

CORAM : **G.A. SANAP, J.**
DATE : **10.12.2024.**

ORAL JUDGMENT

Rule. Rule made returnable forthwith. Heard finally at the

2

stage of admission by consent of learned Advocates appearing for the parties.

2. In this petition, the petitioner/husband has challenged the order dated 11.06.2024 passed by the learned Principal Judge, Family Court, Nagpur, whereby the learned Judge partly allowed the application made by the respondent/wife for interim maintenance and quantified the interim maintenance at the rate of Rs. 15,000/- per month payable from 16.01.2023.

3. The petitioner and the respondent got married on 01.06.2021. The record shows that on account of marital discord, they have separated. The respondent/wife is residing along with her parents at Nagpur. The wife has filed an application under Section 125 of the Code of Criminal Procedure for maintenance. During the pendency of said application, she applied for interim maintenance. The learned Judge granted an opportunity of hearing to both parties and partly allowed the application for interim maintenance. The learned Judge, on the basis of available evidence, quantified interim

3

maintenance at Rs. 15,000/- per month.

4. Learned Advocate for the petitioner submitted that the documentary evidence produced on record by the petitioner proves beyond doubt that he is getting monthly salary of Rs. 12,000/-. He has been appointed as an agent to conduct the Neelam Wine Bar business of Mr. Gulab Panchwani. Except this salary, he has no other source of income. Learned Advocate submitted that the learned Judge, relying upon the documentary evidence produced without pleading, has quantified excessive and exorbitant interim maintenance. Learned Advocate submitted that the petitioner has explained each and every fact vis-a-vis his income in his reply. Learned Advocate submitted that the interim maintenance awarded by the learned Judge being excessive and exorbitant, needs to be reduced.

5. I have heard Mr. Nitin L. Jaiswal, learned Advocate for petitioner and Mr. Y.B. Mandpe, learned APP for the State/respondent. Perused record and proceedings.

4

6. Learned Advocate for the respondent/wife submitted that at the stage of deciding the interim application, the learned Judge took into consideration the documentary evidence with regard to the income of the husband. Learned Advocate submitted that the husband suppressed the material facts. It is submitted that the husband is leading a luxurious life. He has traveled abroad. The bank account statement clearly shows that there are multiple entries of credit of huge amount in his account. In the submission of learned Advocate for the respondent/wife, interim maintenance quantified by the learned Judge is just, proper and reasonable.

7. I have gone through the record and proceedings. The father of the petitioner is doing business. The father of the petitioner and the petitioner are residing in the house owned by them at Karanja. The petitioner is running Neelam Wine Bar of Mr. Gulab Panchwani. The Naukarnama is produced on record. The learned Judge on the basis of available evidence, while deciding the quantum of the interim maintenance, observed that the petitioner possesses sufficient means and income to pay the maintenance. The respondent/wife is well

5

qualified. It is stated that she is not doing any job or service. The main application filed by the respondent/wife for maintenance is pending before the Family Court, Nagpur. The learned Judge in his order, has observed that with the meagre salary of Rs. 12,000/-, the petitioner/husband could not lead a luxurious life. As far as the documentary evidence relied upon by the respondent/wife in support of the contention is concerned, the petitioner has denied the same. It is to be noted that the respondent/wife has produced before the Family Court printout of the linked account of the petitioner. The information related to the petitioner/husband can be seen from this account. Learned Advocate for the petitioner/husband across the bar submitted that the petitioner indeed traveled abroad. It is submitted that the tour was sponsored by his employer.

8. In my view, for deciding all factual issues, the parties would be required to adduce the evidence in the main proceedings. The material on record is sufficient to prima facie conclude that the income of the husband is more than what has been stated by him. In the facts and circumstances, in my view, there was no error on the part

6

of the learned Judge. The amount of Rs. 15,000/- per month quantified as maintenance would satisfy the bare minimum requirements of the respondent/wife. The amount of Rs. 15,000/- for maintenance in the present price index would hardly satisfy the minimum requirement. The wife with the amount of Rs. 15,000/- per month could not lead a luxurious life. The learned Judge has taken into consideration the available material on record and the attending circumstances. I do not see any reason to interfere with the well-reasoned order passed by the learned Judge. The interim maintenance at the rate of Rs. 15,000/- per month in the facts and circumstances is just, proper, and reasonable. As such, the petition is dismissed. Rule is discharged.

9. The learned Judge is requested to dispose of the proceedings expeditiously and in any case within six months from the date of receipt of the copy of this judgment and order.

7

10. The learned Judge, while deciding the main matter, shall not in any manner get influenced by the observations made by this Court in this order.

(G.A. SANAP, J)

Gohane