



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

CRIMINAL WRIT PETITION NO. 662 OF 2024

Nitin Dinkar Kharche

Aged 50 yrs. Occ. Agriculturist
R/o, Chikhlikhurd, Tq. Khamgaon,
District Buldhana

... PETITIONER

// VERSUS //

1. **Sau. Shweta Nitin Kharche**

Age:- 43 years,
Occupation : Household

2. **Ekta Nitin Kharche,**

Age: 22 years, Occupation: Student,

3. **Adip Nitin Kharche,**

Age: 16 years, Occupation : Student
through Natural Guardian Mother
Sau. Shweta Nitin Kharche,
All R/o Adarsh Colony, Ghodaud Road,
Near Pant Market Akola,
Tq., Dist. Akola

... RESPONDENTS

Mr A.B. Bhuibhar, Advocate for the petitioner.

Mr. Narendra Dhoot, Advocate for the respondents.

CORAM : G. A. SANAP, J.

DATE : 12.11.2024

ORAL JUDGMENT :

1. In this writ petition, the petitioner (hereinafter referred to as husband) challenged the order dated 06.05.2024

passed by the learned Judge of the Family Court at Akola, whereby the learned Judge directed the husband to pay interim maintenance @ of Rs.6,000/- (Rs. Six Thousand Only) p.m. to respondent No.1- (hereinafter referred to as wife) and to respondent Nos. 2 and 3 (hereinafter referred to as children) @ Rs.4,000/- (Rupees Four Thousand Only) p.m. each with effect from 07.08.2023.

2. There is no dispute with regard to the relations between the parties. It is the case of the wife that on account of a matrimonial dispute between her and the husband, she has been forced to reside alone with children in the house owned by the husband at Akola. The children are taking education. It is stated that she has no source of income to maintain herself as well as the children. According to the wife, the husband has not made provision for her maintenance and the maintenance of the children. The wife and the children have therefore, filed the application for maintenance under Section 125 of the Code

of Criminal Procedure. During the pendency of the said application, the wife and children applied for interim maintenance.

3. The husband filed the reply and opposed this application. The husband has denied the contention of the wife with regard to her income. The husband has also denied that he has failed and neglected to maintain the wife and children. The husband has further contended that the wife is well qualified and she is doing business under the name and style as Manaswi Creation and Samrudhhi Farming and earning Rs.25,000/- to 30,000/- per month.

4. As directed by the learned Judge of the Family Court, the husband and wife filed their respective affidavit/statement of assets and liabilities. The learned Judge, on consideration of the material on record observed that the husband owns agricultural land. It is further observed that the

husband has source of income. Learned Judge has observed that in the affidavit of assets and liability the husband has stated that the income of the wife is nil. Learned Judge observed that the husband has failed and neglected to maintain the wife and children and accordingly, ordered the husband to pay the interim maintenance as above.

5. I have heard learned Advocates for the parties. Perused the record and proceedings.

6. Learned Advocate for the husband submitted that the husband is taking care of the education of the children. He has pointed out the receipts of the fees etc. paid by the husband to meet the educational expenses of the children. Learned Advocate for the respondents has not seriously disputed this statement. In fact, he submits that the statement made by the husband before the Family Court that he would bear the educational expenses of the children was not recorded in the

order. Learned Advocate for the respondents submits that the husband shall continue to bear the educational expenses of the children.

7. The only question that needs to be considered in this petition is as to whether the interim maintenance quantified by the learned Judge is just, proper and reasonable. I have perused the record and proceeding. It has come on record that the father of the husband is a pensioner. This fact has been recorded in the order passed by the learned Judge. The husband owns agricultural land. It is also evident from the record that the husband has borrowed near about Rs. 28 lakhs to Rs. 30 lakhs and he is repaying the loan by monthly installment of Rs.25,000/-. The husband has stated that his income is not as averred by the wife and children. The learned Judge, keeping all these aspects in mind, quantified the interim maintenance. Undisputably there is no evidence, at this stage, on record to establish that the wife has independent source of

income. It is undisputed that the wife has been residing in the house owned by the husband. It therefore, goes without saying that on this count the wife and children are not required to spend any amount. It appears that the parties are from well do family. They are well qualified. While quantifying the maintenance, the Court has to keep in mind the position of the parties in the society. Similarly, while quantifying the maintenance, the Court has to bear in mind the standard of living, the parties are accustomed to while staying together. In my view, considering the position of the parties in the society, the interim maintenance quantified by the learned Judge, on the basis of the *prima facie* material is just, proper and reasonable. It is common knowledge that the price index is sky rocketing. In this situation, the interim maintenance quantified by the learned Judge would be sufficient to satisfy their bare minimum needs and requirements.

8. In view of this, I conclude that there is no substance in this petition. The interim maintenance quantified by the learned Judge is just, proper and reasonable. By applying any standard, in juxtaposition with the position of the parties in the society, the interim maintenance could not be said to be excessive and exorbitant. Therefore, I do not see any substance in this petition. Accordingly, it is **dismissed**.

9. It is made clear that the observations made in this order are restricted to the issue of the interim maintenance. Learned Judge shall not get influenced by the same in any manner while deciding the main application on the basis of the evidence adduced by the parties. It is made clear that if the husband is able to establish that since beginning he has taken care of the maintenance and paid the amount to the wife and children, the learned Judge shall take the same into consideration.

10. Criminal Writ Petition stands disposed of accordingly. Pending application, if any stands disposed of.

(G. A. SANAP, J.)

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