



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL WRIT PETITION NO. 1428 OF 2024**

Satyanarayan Rampratap Baldi,  
Age 69 years, Occu: Business,  
R/o E-63, MIDC, Mehrun, Jalgaon  
District Jalgaon

**... Petitioner**

**VERSUS**

1. The State of Maharashtra

2. Sau. Rajkumari Satyanarayan Baldi,  
Age 63 years, Occu: Housewife,  
R/o E-63, MIDC, Mehrun, Jalgaon  
District Jalgaon

**... Respondents**

Mr. Vijay Bhalerao Patil, Advocate for the Petitioner  
Mr. S. M. Ganachari, APP for the Respondent No.1 State  
Mr. A. M. Siddiqui, Advocate for Respondent No.2.

**CORAM : Y. G. KHOBRADE, J.**

**DATE : 13<sup>th</sup> January, 2025**

**JUDGMENT:-**

1. **Rule.** Rule made returnable forthwith and heard finally with consent of both the sides.

2. By the present Petition under Article 227 of the Constitution of India, the Petitioner prays for quash and set aside Judgment and order dated 05.07.2024 passed by the learned Additional Sessions Judge, Jalgaon in Criminal Appeal No.35 of 2023, thereby affirmed order dated 31.01.2023, passed by the learned Judicial Magistrate First Class, Court

No.5 Jalgaon, wherein the present Petitioner/original opponent No.1 directed to pay Rs.30,000/- towards interim maintenance to the present respondent No.2/aggrieved party from the date of application till its decision.

3. It is not in dispute that, on 29.06.1980, marriage between Petitioner and respondent No.2 solemnized at Ujjain (MP). Out of said matrimonial relations, present Petitioner and respondent No.2 are blessed with two male children. Respondent No.2/original applicant alleged that the present petitioner/original opponent no.1 never took her care including her ailment but She was subjected to domestic violence from beginning. She is from well known family of Ujjain, whereas the present petitioner is an industrialist and running industry namely S S Industries at Jalgaon, which has turnover in crores of rupees per year. Besides this, the Petitioner having various landed properties and drawing handsome income.

4. Respondent No.2/aggrieved party further alleged that, during pandemic of Covid 19, she was tested positive but the petitioner/her husband has not taken her care. Since then she is spending measurable life at the mercy of her brother. Therefore, she filed PWDVA No. 129 of 2021 and prayed for protection order. Respondent No.2/original applicant also filed an application seeking interim maintenance of Rs.70,000/- per

month to meet her daily needs and Medical expenses.

5. The present petitioner/original opponent no.1 filed reply and strongly resisted application on ground that, he suffered huge loss in his business and he has borrowed loan of Rs.2,42,32,000/- in order to overcome from losses. Therefore, he requires to pay installment of Rs.3 lakhs per month. Under these circumstances, if he is directed to pay huge amount of Rs.70,000/- per month, it will be excessive,hence, prayed for rejection of the application.

6. On 31.01.2023, the learned Judicial Magistrate First Class passed an order below Exh.1 and directed the present Petitioner/opponent No.1 to pay Rs.30,000/- per month to Respondent No.2/aggrieved party from the date of application till decision of the main application.

7. Being aggrieved by said order, the Respondent No.2 wife filed Criminal Appeal No.33 of 2023, whereas the present Petitioner husband filed Criminal Appeal No. 35 of 2023 before the learned Additional Sessions Judge, Jalgaon. On 5<sup>th</sup> July, 2024, the learned Appellate Court passed the impugned order holding that, the present petitioner/original opponent no.1 is having sound financial position. The petitioner is an Industrialist running a Company/Industrial Unit, which is having yearly turnover in crores of rupees. Merely, the petitioner paying monthly

installment of Rs.3 lakhs of the loan it would not disentitle the respondent-wife to claim maintenance and affirmed the order passed by the learned Judicial Magistrate, First class, which does not appear to be perverse, illegal and bad in law.

8. The learned counsel appearing for the petitioner relied on the case of **Shiv Kumar Singh Dagdusingh Thakur Vs. Malti Shiv Kumar Singh, 2011 (4) Bom. C.R. 161**, wherein in paragraph Nos. 16 and 18, the Division Bench of this court observed as under:

*“16.Amount of maintenance is a matter of judicial discretion of the Court. The expression maintenance ordinarily includes cost of shelter, house, food, clothing, medical attention, etc. In the facts of the present case, it can be said that the respondent wife was in a position to have pleasure trips to Kerala etc. She admits that she is contributing/participating in Bissi, i.e. a kitty of ladies. However, she has given ceiling of Rs. 1500/-. Respondent wife has clearly admitted, as we have referred, that she does have some fixed deposits with some banks. Details have not been furnished by her. This fact is within her special knowledge. The conclusion can be safely arrived that some amount to the knowledge of the respondent wife is with the Bank in fixed deposits accruing some interest, payable to her.*

*18. We are of the view that a claim for maintenance may be made by wife only where there is a refusal on the part of the husband to maintain her and, therefore, she is living separately. No case has been cited before us at bar where a claim for maintenance has been considered to be valid even though wife is staying in the protection of her husband under the same roof.*

*Having regard to the circumstances of the case, we are of the view that the husband has not refused to maintain the wife who is living with him. Therefore, it is not a fit case for considering grant of maintenance.”*

9. However, in case in hand, the learned Judicial Magistrate First Class considered Income Tax Return (ITR) of the present petitioner for the year 2018-2019 as well as the affidavit of assets and liability produced at Exhs. 25 and 28 and granted interim maintenance in favour of the Respondent-wife. On perusal of Reply filed by the present petitioner, it does not suggest about disclosing net monthly income of the petitioner-husband. On the contrary, it appears that, the petitioner is an industrialist and his Company having yearly turnover in Crores of rupees. Therefore, considering the fact that, the wife is required to maintain equal status of her husband as well as daily needs and medical expenses of the Respondent-wife, the learned JMFC passed the order of interim maintenance and directed the petitioner to pay Rs. 30,000/- per month and affirmed by the learned Appellate Court, which does not appear to be exorbitant, illegal, bad in law.

10. In view of the above discussion, present petition deserve to be dismissed. Accordingly Writ Petition is dismissed. Rule is discharged.

**( Y. G. KHOBRAGADE, J. )**

JPChavan