

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.8128 OF 2024**

MR. TEJ SATISH GHATGE

VERSUS

MRS. NIYATI TEJ GHATGE

...

Mr. Ashutosh Kulkarni a/w Mr. Siddharth Shitole, Advocate for Petitioner.

Mr. Shivaji A. Masal, Advocate for Respondent.

...

AND

WRIT PETITION NO.12681 OF 2024

MRS. NIYATI TEJ GHATGE

VERSUS

MR. TEJ SATISH GHATGE

...

Mr. Shivaji A. Masal, Advocate for Petitioner.

Mr. Ashutosh Kulkarni a/w Mr. Siddharth Shitole, Advocate for Respondent.

...

CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 11th SEPTEMBER, 2025.

PRONOUNCED ON : 16th SEPTEMBER, 2025.

FINAL ORDER:-

1. The Writ Petitions take exception to order dated 24.04.2024 passed below Exhibit-9 in Hindu Marriage Petition No.370/2027 by Family Court, Sangli, thereby awarding interim maintenance @ Rs.2,54,075/- to respondent-wife from petitioner-husband. The husband/petitioner in Writ Petition No.8128/2024 is aggrieved by quantum of maintenance amount, whereas wife/respondent is

aggrieved by decision granting maintenance from date of order instead of date of application.

2. The petitioner-husband instituted proceeding under Section 13(1)(i-a)(i-b) of Hindu Marriage Act, 1955 seeking decree of divorce against respondent-wife before Family Court at Sangli. The respondent-wife filed application below Exhibit-9 seeking interim maintenance. Both parties filed affidavits disclosing their assets and liabilities. The learned Family Court after hearing parties, allowed application below Exhibit-9 and directed husband to pay interim maintenance @ Rs.2,54,075/- per month from date of order.

3. Mr. Kulkarni, learned Advocate appearing for petitioner in Writ Petition No.8128/2024 vehemently contends that impugned order is unsustainable in law, so also it is based on incorrect appreciation of material on record. By inviting attention of this Court to Income Tax Returns submitted by husband, he would urge that average monthly income of husband was approximately Rs. 2,00,000/- to Rs.2,50,000/-. The learned Family Court erroneously observed that husband possesses assets worth Rs.141.49/- crores relying upon contents of audit report at Exhibit-41. Mr. Kulkarni would further submit that respondent-wife is having her own income, which is discernible from her affidavit at Exhibit-66. As per Income Tax Returns for year 2022-2023, she had income of Rs.12,77,599/-. In support of his contentions he relies upon

observations of Supreme Court of India in case of ***Rinku Baheti Vs. Sandesh Sharda***¹.

4. Per contra, Mr. Masal, learned Advocate appearing for respondent-wife vehemently submits that learned Family Court has considered all relevant aspects and living standard of couple, when they were residing together and rightly determined maintenance amount. In support of his contentions he relies upon observations of Supreme Court of India in case of ***Kiran Tomar and Others Vs. State of Uttar Pradesh and Another***².

5. Having considered submissions advanced, material on record and reason recorded in impugned order, it can be observed that learned Family Court accepted that respondent-wife is Cricket Trainer and renders her services to ICC and BCCI in cricket matches arranged by them. The fact remains that respondent-wife has her own income from her profession as Cricket Trainer and her income for accounting year 2022-2023 was Rs.12,77,599/-. On other hand, petitioner-husband has average monthly income of Rs.2,00,000/- to Rs.2,50,000/-. As rightly pointed by Mr. Kulkarni, learned Family Court has misread certificate of Chartered Accountant while taking net worth of husband as Rs.141.49/- crores. Reading of Chartered Accountant's certificate dated 17.08.2020 depicts that net worth of petitioner is Rs.141.49/- lakhs. It is true that, husband holds

¹ (2025) 3 SCC 686.

² 2022 SCC OnLine Sc 1539.

agriculture land and gold ornaments, so also possesses good amount of Fixed Deposits and four expensive cars.

6. In case of ***Rinku Baheti*** (supra) Supreme Court observed in paragraph no.82 as under:

“82. But the petitioner-wife in the instant case has sought equalisation of status not just with the respondent-husband but also with the ex-wife of the respondent. In our opinion, this cannot be an acceptable approach. The fixation of alimony depends on various factors and there cannot be any straight-jacket formula for the same. Thus, the petitioner cannot simply claim an amount equal to what the ex-wife of the respondent had received or on the basis of the income of the respondent. The Court has to not just consider the income of the respondent-husband here, but also bear in mind other factors such as the income of the petitioner-wife, her reasonable needs, her residential rights, and other similar factors. Thus, her entitlement to maintenance has to be decided based on the factors applicable to her and not depend on what the respondent had paid to his ex-wife or solely on his income.”

7. It is also observed that law of maintenance is aimed at empowering destitute and achieving social justice and dignity of individual. The husband is under legal obligation to sufficiently provide for his wife. As per settled law, wife is entitled to be maintained as far as possible in a manner that is similar to what she was accustomed to in her matrimonial home while parties were together.

8. In light of aforesaid observations, it is apposite to find out what should be interim maintenance amount that will be appropriate for

wife to maintain lifestyle similar to what she was accustomed in her matrimonial home while parties were together.

9. In light of evidence on record, it is certain that income of husband must be atleast Rs.2,50,000/- per month. Apart from that, he must have income from agriculture land, interest on fixed deposits and dividend from various investments in share capital. Although marriage between parties was solemnized in year 14.02.2013, it can be inferred from pleading that parties are living separate right from 2016 onward. Income Tax Returns on record shows that husband had income of atleast Rs.30/- lakhs per annum at relevant time. One can visualized living standard of couple at relevant time on basis of aforesaid documents.

10. Since wife is also earning from her profession as Cricket Trainer, it can be presumed that she must be earning atleast Rs.75,000/- per month, although once her income is shown as Rs.12,77,599/-. Therefore, at this stage, while considering claim of interim maintenance, it can be presumed that respondent-wife requires atleast amount of Rs.75,000/- per month for her maintenance in addition to her income. In this background, this Court finds that interim maintenance of Rs.2,54,077/- per month as awarded by Family Court is excessive, exorbitant and based on erroneous appreciation of material on record. Careful reading of impugned order nowhere depicts basis for granting maintenance @ Rs.2,54,077/- per month. In paragraph

no.21, learned Family Court simply took note of expenditure as claimed by wife in her affidavit at Exhibit-66, which is quantified to Rs.1,04,075/- and in addition Family Court granted Rs.1,00,000/- towards expenses under various heads. House rent appears to be counted twice. Apparently, order is without application of mind.

11. Pertinently, communication dated 03.09.2020 issued by respondent-wife to petitioner-husband shows that she had demanded amount of Rs.50,000/- for her monthly expenses. Various heads of expenditures are mentioned in that communication, that itself shows expectancy of wife to maintain her living standard. The said communication appears to have been made during Covid period when sports activities were completely shut down and wife had lost her earning source. Looking to the totality of circumstances, this Court deems it proper to grant interim maintenance of Rs.75,000/- per month to wife.

12. It is well settled that when maintenance is granted by order of Court, it should be granted from date of application and not from date of order. The learned Family Court granted maintenance from date of order, which is contrary to observations of Supreme Court of India in case of *Rajnesh Vs. Neha and Another*³. It is observed that, in absence of uniform regime, there is vast variance in practice adopted by Family Courts in Country, with respect to date from which maintenance must

³ (2021) 2 SCC 324.

be awarded. The divergent views taken by Family Courts are: *first*, from date on which application for maintenance was filed; *second*, date of order granting maintenance; *third*, date on which summons was served upon respondent.

13. Ultimately, Court observed that even though decision to award maintenance either from date of application, or from date of order, was within discretion of Court, it would be appropriate to grant maintenance from date of application. In that view of matter, this Court deems it appropriate to grant interim maintenance to respondent-wife from date of application. In view of aforesaid observations, Writ Petition No.12681/2024 filed by respondent-wife seeking interim maintenance from date of application deserves to be allowed. Hence, following order:

ORDER

- a. Writ Petition No.8128/2024 filed by husband is partly allowed.
- b. Writ Petition No.12681/2024 filed by wife is allowed.
- c. The impugned order dated 24.04.2024 passed below Exhibit-9 in Hindu Marriage Petition No.370/2027 by Family Court is modified.
- d. The respondent-husband shall pay monthly maintenance of Rs.75,000/- to wife on or before 7th day of each month from date of application.

e. Rest of directions under impugned order dated 24.04.2024 are maintained as it is.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/September-2025