

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.12885 OF 2023**

Shri Yogesh Dattatray Sontakke,
Age 41 years, Occupation: Service,
R/o. Vishwatara Apartment, 203
2nd Floor Pratibha Nagar, Kolhapur.

..Petitioner

Versus

Sau. Ashwini Yogesh Sontakke,
Age 37 years, Occupation: Business,
R/o. Samradni Plastric, Near Renuka,
Temple, Rajarampuri 11th Lane, Kolhapur.

..Respondent

...

Mr. Jayant Bardeskar, Advocate for Petitioner.
Mr. Abhijeet Pramod Chabukswar a/w Mr. Rakesh Madhukar Shinde,
Advocate for Respondent.

...

CORAM : S. G. CHAPALGAONKAR, J.

**RESERVED ON : 18th SEPTEMBER, 2025.
PRONOUNCED ON : 14th OCTOBER, 2025.**

FINAL ORDER:-

1. The present Writ Petition takes exception to order dated 23.06.2023 passed below Exhibit-12 in Petition No.A-302/2023 by Family Court, Kolhapur, by which petitioner is directed to pay maintenance amount of Rs.12,000/- per month to respondent from date of application till decision in main petition on merit.
2. The petitioner instituted proceeding for dissolution of marriage. The marriage between petitioner and respondent was solemnized on 29.09.2008 as per Hindu rites and customs. The couple is blessed with

two children namely Aayush and Khushi. Both are residing with petitioner. The respondent-wife appeared in proceeding of divorce and filed application under Section 24 of Hindu Marriage Act seeking interim maintenance of Rs.40,000/- per month and also litigation expenses of Rs.15,000/-. She contended that she has been deserted since 29.03.2019. She is residing separately in rented house. She is doing trifle work of Parlor and earning Rs.3000/- per month, which is insufficient to maintain herself. She contended that petitioner is partner in Gagan Tours at Kolhapur and earns Rs.1,00,000/- to Rs.1,50,000/- per month and lives luxury life.

3. The petitioner-husband denied averments in application and pointed out that two children are residing with him. The respondent-wife running Aayush Gifts and Bag House at Kolhapur and earns more than Rs.25,000/- per month. Apart from that, she has two other businesses, which are also generating income.

4. Both parties have filed their affidavits of assets and liabilities. The Family Court observed that there is nothing to show respondent's earning. The respondent-wife has deposed that she is getting meager amount of Rs.3000/- per month by Parlor work, whereas petitioner-husband deposed that he earns Rs.30,000/- per month by way of salary. He has flat, which generates rent of Rs.16,000/- per months. However, he has to repay loan installments. The Family Court

observed that since respondent has not filed account statements, interim maintenance @ Rs.12,000/- per month can be granted.

5. Mr. Jayant Bardeskar, learned Advocate appearing for petitioner vehemently submits that there is absolutely no evidence to show that petitioner is earning more than Rs.30,000/- per month by way of salary and Rs.16,000/- per month towards rent of flat. The petitioner is taking care of two children, who are in his custody. Apart from that, he has liability towards school expenses and salary of housemaid. The EMI of loan is almost Rs.36,500/- per month. In this background, assessment of interim maintenance amount of Rs.12,000/- per month is highly excessive and exorbitant. He would further submit that respondent has received cash credit of Rs.5,00,000/- of Bank of Maharashtra, which shows her sound financial condition. Apart from that, she is residing in one bungalow procured on rent of Rs.10,000/- per month, which shows her sound income.

6. Having considered submissions advanced, it can be observed that petitioner has taken up responsibility of two children, so also repaying house loan. Except statement made by petitioner himself regarding his income, there is nothing on record by which income of petitioner can be gathered. The Judge, Family Court jumped to conclusion that petitioner must be earning more than Rs.80,000/- per month from his business as partner in Gagan Tours. There is no basis to draw conclusion that petitioner is partner in Gagan Tours. The Shop Act

License pertains to Gagan Tours shows that one Nandini Khuperkar is owner of Gagan Tours.

7. In that view of matter, this Court finds that assessment of interim maintenance of Rs.12,000/- per month is slightly excessive. Assuming that petitioner has income of about Rs.50,000/- per month from two sources and considering his responsibility to maintain two children, it would be appropriate if petitioner is directed to pay maintenance of Rs.10,000/- per month to respondent from date of application till decision of main petition. Hence, following order:

ORDER

- a. Writ Petition is partly allowed.
- b. The impugned order dated 23.06.2023 passed below Exhibit-12 in Petition No.A-302/2023 by Family Court, Kolhapur is modified in aforesaid terms.

(S. G. CHAPALGAONKAR)
JUDGE