

JYOTI
RAJESH
MANE

Digitally signed
by JYOTI
RAJESH MANE
Date: 2025.11.21
12:51:07 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1880 OF 2024

Mr. Dharmendra Parasnath Singh
Versus

...Petitioner

Mrs. Nitu Dharmendra Singh
(Nee Nitu Harihar Singh)

...Respondent

Mr. Akshay Shetty for Petitioner.

Mr. Rajesh Khobragade a/w. Mr. Sanjeevan Gaikwad, for Respondent

CORAM: AARTI SATHE, J.

DATE: 17th November 2025

P.C.

1. Rule. Rule made returnable forthwith. Heard Petition finally by consent of both parties.

2. By way of the present Petition, the Petitioner-Husband is challenging the order dated 25th January 2023 passed by the learned Judge Family Court, Thane (hereinafter referred to as the “impugned order”) in the Application for Interim Maintenance filed by the Respondent-Wife in Marriage Petition No. A-173/2018. By way of the aforesaid impugned order, the Petitioner-Husband has been directed to pay an interim maintenance of Rs. 15,000/- (Rupees Fifteen Thousand only) per month to the Respondent-Wife for maintenance from the date of filing the application for interim maintenance dated 20th April 2021 till further orders.

3. The matter had come up several times for hearing before this Court, and by orders dated 22nd February 2024 and 22nd March 2024 the Petitioner-Husband was directed to pay the interim maintenance to the Respondent-Wife as directed in the impugned order. Some amount of the interim maintenance has been paid as per the directions of this Court. However, the entire amount has not been paid by the Petitioner-Husband to the Respondent-Wife. Some amount has also been withdrawn by the Respondent-Wife from this Court.

4. Efforts were made to mediate between the two parties, and this Court also referred the parties to the Main Mediation Center, High Court, Bombay for appointment of a mediator for conducting Mediation meetings at Thane. However, the Mediation attempts have failed and there appears to be no chance to settle the disputes amicably between the parties.

5. It is seen that considerable time has lapsed from the time of filing this Petition and further the Petitioner-Husband has not paid the balance amount of interim maintenance as directed by the impugned order. I therefore proceed to decide the Petition at the stage of admission itself with the consent of both parties.

6. Briefly some facts need to be set out to decide the aforesaid issue:

i) The Petitioner-Husband has filed the Divorce Petition bearing No. A-173 of 2018 in the Family Court at Thane under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 on 7th April 2018, which is pending adjudication. The

Respondent-Wife filed an application for interim maintenance and permanent maintenance during the pendency of the aforesaid Petition. The Petitioner-Husband filed his reply in detail to the said interim application, showing his inability to pay the amount of maintenance as claimed by the Respondent-Wife. The Petitioner-Husband also annexed his affidavit of assets and liabilities in the said reply to the interim maintenance application filed by the Respondent-Wife.

ii) The Respondent-Wife had filed a Domestic Violence Application under Section 12,17,18,20,22 & 23 of Protection of Women from Domestic Violence Act, 2005 (DV Act), in DV No.163/17 (DV Proceedings) before the learned JMFC Thane, wherein the Respondent-Wife contended that the Petitioner-Husband has deserted the Respondent-Wife and harassed and tortured her. It was also the Respondent-Wife's contention in the DV Proceedings that the Petitioner-Husband along with his family, upon coming to know that the Respondent-Wife was pregnant had tried to compel her to get an abortion. However, unfortunately the child born to the Petitioner-Husband and Respondent-Wife died shortly after its birth. Further on 8th June 2017 Respondent-Wife filed an FIR with Mira Road Police Station under Section 498A, 406, 323, 504, and 506 of the Indian Penal Code, 1860 on account of the continuous harassment of the Respondent-Wife by the father, mother, and sister of the Petitioner-Husband causing her physical harassment and mental agony. However, the Petitioner-Husband and his family were released on bail by order dated 29th August 2017 passed by the learned Additional Sessions Judge, Thane in Anticipatory Bail Application No. 1893/2017.

7. Though the above-mentioned facts are not relevant to decide the quantum of maintenance which has been challenged by the Petitioner-Husband by way of the present Petition, it only gives a glimpse as to the unhappy state of affairs, in so far as the marriage of the Petitioner-Husband and Respondent-Wife is concerned.

8. In the backdrop of the above facts, I proceed to decide the grievance of the Petitioner-Husband regarding the quantum of maintenance. Learned counsel on behalf of the Petitioner-Husband Mr. Akshay Shetty submitted that, the Petitioner is unable to pay any additional amount over and above what has been deposited in the Court by way of the earlier orders. He has further submitted that the impugned order has been passed without taking into consideration the financial condition of the Petitioner-Husband and considering that he is in financial difficulty he is unable to pay such an exorbitant amount of Rs 15,000/- as directed by way of the impugned order. His submissions assailing the impugned order are as follows:-

a) The impugned order directing the Petitioner-Husband to pay Rs. 15,000/- per month for the maintenance of the Respondent-Wife is arbitrary, unjust and unreasonable and has not taken into consideration the relevant facts and circumstances of the Petitioner-Husband.

b) The impugned order passed by the learned Family Court, Thane has failed to take into consideration that in her affidavit of assets and liabilities which was filed

by the Respondent-wife before the learned Family Court, Thane, she has mentioned that she is a well-educated lady having degrees of B.Com, M.Com, DTL and therefore the Respondent-Wife could maintain herself and she was hiding her real monthly income from the learned Family Court, Thane.

c) The impugned order failed to appreciate that the Respondent-Wife's bank statement clearly reflected the transactions in her account where credits were received from time to time.

d) The learned Family Court, Thane failed to consider the affidavit of assets and liabilities of the Petitioner-Husband, in the right perspective. Further, the Petitioner-Husband's father is partially paralyzed from 2021 and is suffering from liver cancer and has undergone surgeries and is also suffering from knee issues and other age-related ailments. The Petitioner-Husband as a son is therefore obliged to take care of all the medical expenses of his Father. Further the Petitioner-Husband's mother is suffering from severe arthritis and has undergone eye surgery and ailment related to kidney and ears. The Petitioner-Husband's brother is handicapped with an amputated foot due to an accident several years ago and all the medical expenses are being borne by the Petitioner-Husband. The Petitioner-Husband also has a widowed sister, and her children are also dependent on him for the day today day-to-day expenses and other necessary things.

e) The impugned order failed to take into consideration that the Petitioner-Husband has a limited salary and has to take care of all the household expenses and

all the medical expenses and that leaves him with very little money to pay the exorbitant amount as directed by the impugned order. The Petitioner-Husband also has loan liabilities, and those loan liabilities have only increased over a period of time, considering the ever-increasing medical expenses of the Petitioner-Husband and his family.

f) The learned Family Court, Thane has also failed to take into consideration that the Respondent-Wife has left the matrimonial home without any due reason and has filed several criminal proceedings against the Petitioner-Husband and his family only with a view to harass them. Further the learned Family Court, Thane has failed to take into consideration that the Respondent-Wife is an educated lady and comes from a rich family background and hence she can fend for herself and does not require the high maintenance amount as directed by the learned Family Court, Thane. It is therefore the Petitioner-Husband's contention that the learned Family Court, Thane ought to have appreciated that the Respondent-Wife is an able and capable lady and is a fit and healthy lady and capable to take up work to maintain herself. In view of the aforesaid contentions the learned counsel on behalf of the Petitioner-Husband submitted that the impugned order deserves to be quashed and set aside or modified to the extent of awarding, if at all, a lesser maintenance amount to the Respondent-Wife.

9. Learned counsels on behalf of the Respondent-Wife Mr. Rajesh Khobragade, along with Mr. Sanjeevan Gaikwad, on the other hand has submitted that the impugned order is a well-reasoned order and has been passed taking into

consideration all the facts and financials of the Petitioner-Husband and Respondent-Wife. It is his submission that an amount of Rs.15,000/- as interim maintenance per month, as ordered for the Respondent-Wife is not excessive and is a reasonable amount. It is further his submission that from the date of passing the impugned order till today the Petitioner-Husband's salary has increased and yet he is not paying interim maintenance amount to the Respondent-Wife on some pretext or the other, thereby running away from his responsibility as a husband.

10. Further, Counsel on behalf of the Respondent-Wife has submitted that the Petitioner-Husband's contention that his entire monthly income was expended towards his family members' medical expenses is only a ploy to exaggerate his expenses and conceal his income. It is further his contention that the existence of loan liabilities would not voluntarily extinguish the Petitioner-Husband's moral obligation to maintain the Respondent-Wife. It is also his submission that the allegation of the Petitioner-Husband that the Respondent-Wife is gainfully employed and does not require maintenance has not been proved by the Petitioner-Husband in order to disentitle the Respondent-Wife from the interim maintenance. Learned counsel on behalf of the Respondent-Wife has also contended that the fact that the Respondent-Wife has voluntarily left her matrimonial home could not be made a ground to deny interim maintenance to the Respondent-Wife.

Analysis

11. I have perused the papers, impugned order, and the submissions made on behalf of the Petitioner-Husband and Respondent-Wife, and considering the same, I proceed to pass the following order:-

12. The Petitioner-Husband and the Respondent-Wife have filed their affidavit of Assets and Liabilities before the learned Family Court, Thane. The aforesaid affidavit of assets and liabilities have been filed in light of the decision of the Apex court in Rajnesh Vs. Neha & Ors¹. After perusal and consideration of all the documents and the findings given in impugned order it is my view that the impugned order is a well-reasoned order and has been filed on a proper perusal of facts placed before the learned Judge, Family Court, Thane. It is to be noted that the court, while determining the amount of maintenance, has to consider, the status of the parties, the reasonable needs of the claimant, the income of the claimant, and the lifestyle accustomed to by the claimant while staying with her husband. It is clear in the impugned order that the Petitioner-Husband is a BSC MBA and is working with a reputed bank (ICICI). The pay-slip of November 2022 as referred to in the impugned order shows a gross salary of Rs. 1,70,453/- and a total deduction of Rs. 53,130/-, along with loan deductions. Further, the pay-slip also shows a net salary of the Petitioner-Husband at Rs. 1,17,323/-. The impugned order has also taken into consideration the affidavit of assets and liabilities filed by the Respondent-Wife, wherein she has mentioned her monthly expenses at Rs.

¹ (2021) 2 SCC 324

1,50,000/- and further has taken into consideration the bank account statement from 1st December 2020 to 18th November 2021 wherein only small periodical deposits are reflected.

13. Further the impugned order has also appreciated the fact that the Respondent-Wife has no source of income and is in fact dependent on her parents for taking care of her needs. The impugned order also notes that some expenses of the Respondent-Wife may be inflated. However, she still requires money to carry out her day-to-day activities and meet her expenses. Though the Petitioner-Husband has submitted that there are several responsibilities on him and he has to meet the medical expenditure of his parents and disabled brother, yet that does not take away the moral responsibility of the Petitioner-Husband to maintain and look after his wife. In fact, the impugned order very categorically states that after marriage a woman has to sacrifice several things, and further even if the Respondent-Wife is qualified, that cannot be the sole reason for depriving her legal right and be made a ground to refuse maintenance to her.

14. Further the contention of the Petitioner-Husband that only because the Respondent-Wife has voluntarily left the matrimonial home she is not entitled for maintenance finds no favour with this court in as much as it is the responsibility of the Petitioner-Husband to maintain his wife. Marital discord between the parties cannot be used as an excuse to shy away from paying interim maintenance to the Respondent-Wife. Even otherwise, looking at the income of the Petitioner-Husband, and the quantum of maintenance awarded i.e. Rs. 15,000/- by way of the impugned order, I am of the view that it is an extremely reasonable figure awarded

by the Family Court, Thane, taking into consideration all the facts and financials of both the parties.

15. In the case of Rajnesh Vs. Neha & Ors. (supra) the Apex Court has emphasized that maintenance laws are enacted as a measure of social justice to provide recourse to dependent wives and children for their financial support, so as to prevent them from falling into destitution and vagrancy. Further, the Apex Court has also held that merely because the wife is capable of earning, it would not be a sufficient ground to reduce the maintenance awarded by the Family Court. The Court has to determine whether the income of the wife is sufficient to enable her to maintain herself in accordance with the lifestyle of her husband in the matrimonial home. Sustenance does not mean and cannot be allowed to mean mere survival.

16. In view of all the above categorical findings as given in the impugned order, after proper appreciation of the facts and evidence on record, I do not find that this court should interfere in the findings of the impugned order. In view of the above findings given in the impugned order, this Court is of the view that the reasoning recorded in the impugned order does not suffer from any perversity or illegality so as to warrant for any interference in the present petition. In my view the interim maintenance quantified in the impugned order is just, proper and reasonable. It is once again the view of this court that the primary responsibility of the maintenance of the Respondent-Wife is that of the Petitioner-Husband and therefore the interim maintenance order of Rs. 15,000/- per month awarded to the Respondent-Wife by the impugned order is not an excessive amount and the same

has to be paid by the Petitioner-Husband to the Respondent-Wife on a monthly basis from the date of application till further orders. In view thereof, the prayers as made by the Petitioner-Husband are rejected and the Petition is dismissed.

17. Insofar as the arrears of maintenance, if any, to be paid by the Petitioner-Husband to the Respondent-Wife are concerned, the Petitioner-Husband and Respondent-Wife may pursue appropriate remedies as available to them under law before the appropriate forums. In view thereof, this petition stands dismissed. No order as to costs. Rule made absolute in terms of the aforesaid.

(AARTI SATHE, J.)