

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.19422 OF 2024

Mrs. Shrutika Shirish Raut	]	
W/o Siddharth Ramesh Mahadik	]	
Age : 35 Years, Occu : Professional	]	
R/at: 702 Malhar Apts, Lane No. 7	]	
Prabhat Road, Pune 411004.	]	.. <u>Petitioner</u>

V/s.

Mr. Siddharth Ramesh Mahadik	]	
Age : 35 Years, Occu : Business	]	
R/at: Not known	]	
Having O/at : “Le Plaisir”	]	
Raj Kamal Survey No. 759/125,	]	
Prabhat Road, Diagonally Opposite	]	
Kelkar Nursing Home, Pune-411004.	]	.. <u>Respondent</u>

Mr. Abhijit Sarwate a/w Ms. Vaishnavi Dhage, Mr. Vaibhav Thorave and Ms. Hardev K. Aidhen, for the Petitioner.

Mrs. Shrutika Shirish Raut (Petitioner), present in Court.

Mr. Sandesh Shukla a/w Ms. Saba Shaikh, Mr. Amit Singh, Ms. Anasamah Saayed and Mr. Bhushan Bhadgale i/b. Abhay Nevgi & Associates, for the Respondent.

CORAM : MANJUSHA DESHPANDE, J.

RESERVED ON : 16th JULY 2025

PRONOUNCED ON : 20th SEPTEMBER 2025

JUDGMENT :-

1. **Rule.** Rule made returnable forthwith and heard finally with the consent of the parties. The Writ Petition is taken up for final hearing.

2. The Petitioner-Wife, pending the Divorce proceedings, has filed an Application under Section 24 of the Hindu Marriage Act, 1955, (“HMA”) for maintenance *pendente lite*.

3. Being aggrieved by the dismissal of her Application, vide order dated 04.11.2024, passed by the Judge, Family Court No.2, Pune, below Exhibits 5 and 22, the Petitioner has approached this Court in its supervisory jurisdiction under Article 227 of the Constitution of India.

4. The factual matrix necessary for adjudication of the present Writ Petition are as under :

[i] The Petitioner has filed proceedings for Divorce, Compensation, Maintenance, and other reliefs, being P.A. No. 567 of 2023, which is pending before the Judge, Family Court No.2, Pune.

[ii] The parties were married as per Hindu Vedic Rites on 29.03.2019.

[iii] No issue was born out of the said wedlock.

[iv] The Petitioner is an Architect by profession and the Respondent is

the owner of two restaurants, namely, “*Le Plaisir*”, which is located at Prabhat Road, Pune, and “*Loco Octro*”, which is situated at Aundh, Pune.

[v] The parties resided at Pune in a 4 BHK apartment, which is owned by the parents of the Respondent.

[vi] Though the Respondent is a Marine Engineer, he acquired a diploma in Culinary Art/Science from Le Cordon Bleu, Australia and is presently, owner of two popular restaurants at Pune. He started his first restaurant in November, 2012 and the second restaurant was started in the year 2023.

[vii] During their marriage, the parties had vacationed at exotic places like Goa and Bali, etc.

[viii] It is claimed by the Petitioner that, the turnover of the Respondent is about Rs. 65 to 70 lakhs per month, which increases to Rs. 90 to 95 lakhs per month during festive season.

[ix] The parties separated in the year 2021. After separation, the Petitioner has filed the proceedings for Divorce under Section 13 (1)(i-a) and 25 of the HMA, seeking Divorce and permanent alimony, along with an Application for maintenance under Section 24 of the HMA, which is marked at Exhibit 5.

[x] During the pendency of the Application at Exhibit 5, the parties filed their respective affidavits of assets and liabilities.

[xi] The Application at Exhibit 5 was heard along with the Application at Exhibit 22, which is an Application for interim maintenance. Both these Applications were decided, vide a common order dated 04.11.2024, rejecting the Wife's claim for interim maintenance.

5. Mr. Sarwate, learned Advocate, appearing for the Petitioner-Wife submits that, the order passed by the Judge, Family Court, Pune, is arbitrary, erroneous and based on findings that are not supported by any documents. Hence, the order needs to be interfered with by this Court in its exercise of power of superintendence under Article 227 of the Constitution of India.

6. Reliance is placed by the Petitioner on the table reproduced in the memo of the Writ Petition showing the comparative income of the Husband and Wife from the year 2016-17 to 2023-24. As per the last item in the Table, the net income of the Wife was Rs.4,92,160/- and the income of the Husband was Rs. 3,01,40,274.39/-, which is 61 times of the income of Wife.

7. It is the contention of the Petitioner that, this issue has not been appropriately addressed by the Judge, Family Court. According to the

Petitioner, the Family Court has placed unnecessary reliance on the alimony received by her from her previous marriage, thereby drawing an adverse conclusion against her. It is submitted that, the observation of the Judge, Family Court that the Applicant, in her Application, has not disclosed receipt of Rs. 20 lakhs and 10 Tola Gold from her ex-husband, is contrary to the record. He points out that, in the rebuttal argument placed on record by the Petitioner, before the Family Court dated 04.11.2024, there is a specific averment that, the amount of alimony received by her from her previous marriage has been partially paid to her father and remaining amount is invested by her. She has also disclosed in her affidavit of assets and liabilities that, she has invested Rs. 10 lakhs in Mutual Funds. Hence, there is no suppression regarding amount received by her from her previous marriage. It is further submitted that, the Trial Court has failed to take into consideration the subsequent affidavits filed by the Petitioner, wherein she has clarified her income, as well as the alimony received from her previous marriage.

8. The learned Advocate further submits that, the observation of the Court that, *“as per opponent, the applicant’s income is much more than him, as his business is running into losses”*, is contrary to the documents. The observation of the Trial Court that, the salary of the Employees of the Petitioner is almost equal to her monthly income, is

itself contrary to the record. In her clarification, she has stated that, she requires interns and junior architects for co-ordination and running errands; however, she manages the site herself. The names of the juniors reflected in the Bank Statement are the freshers. The juniors working with her are interns from college and are being paid nominal stipends, which is not at all equal to her monthly income. Whatever income she is receiving, is reflected in her Income Tax Returns (“TTRs”). She has admitted that, her monthly income is around Rs. 30,000/- to Rs. 35,000/-.

9. It is submitted that, the observations made by the Judge, Family Court, referring to her notice dated 18.08.2022, wherein the Petitioner has claimed that, “she has been maintaining both of them and the Respondent never spent a penny during their cohabitation and now, she is claiming that, opponent is earning in crores, is highly improbable”, amounts to a distorted appreciation of the notice. It is submitted that, the context in which the Petitioner stated that, she was bearing the expenses of the household, is totally different from the interpretation given by the Judge, Family Court. The statement was made by the Petitioner in her notice in context with her work-life balance before and after marriage. While maintaining the work-life balance, she could not save much as she has been bearing the household expenses for both of them.

10. Mr. Sarwate, learned Advocate submits that, the intent of Paragraph No.13 in the notice was also to demonstrate the conduct of cruelty of the Respondent. In spite of a thriving business, he was not contributing towards the household expenses and the Petitioner was spending an amount of Rs. 20,000/- per month for the upkeep and maintenance of both of them. The Petitioner has never made any statement that, the business of Respondent was not doing well or that, he was not receiving a good income from his business. Therefore, the observation made by the Judge, Family Court that, she was maintaining both of them contradicts the statement that, he is earning in crores, is a distorted version of the averments made by the Petitioner in her notice dated 18.08.2022.

11. It is submitted that, the observations made by the Judge, Family Court, regarding the income of the Respondent are made without taking into consideration the Bank Statements placed on record. The financial capacity of the Husband, which is reflected in the voluminous record, has been totally ignored and on the contrary, the Judge, Family Court, has observed that, it is highly improbable that, the Respondent-Husband is earning in crores, which is inconsistent with the Bank Statements placed on record. The observations made by the Judge, Family Court that, the income of the Opponent-Husband, which runs in crores, is highly improbable, is falsified from the affidavit of assets and liabilities

filed by the Husband, which itself discloses that, as per audited financial statements as on 31.03.2023, Total Income, i.e., income from Business and Other Sources, the Net Income of the Respondent is Rs. 15.50 lakhs per month.

12. Though he has further tried to explain it by stating that, the income generated is required to be reinvested in the business itself for development of the business, it does not absolve him from the financial status shown by him in his affidavit of assets and liabilities. It is, therefore, submitted that, the observation made by the Judge, Family Court that, the Respondent cannot earn such a huge amount, is totally perverse and contrary to the record.

13. Similarly, while considering the income of the Petitioner, the Judge, Family Court, has observed that, photographs produced on record prove that, the Petitioner is a successful Architect and therefore, she cannot earn a meager amount as disclosed by her. This observation is also not in accordance with the affidavit of assets and liabilities filed by the Petitioner, in which she has categorically disclosed her sources of income and the amount she has received from her ex-husband, which she has partly invested in the Mutual Funds and part of the amount has been returned to her father. It is, therefore, contended that, the observations made by the Judge, Family Court, with regard to the

income of the respective parties is perverse, in as much as the observations are totally in contrast to the affidavits filed by the respective parties.

14. It is submitted that, the Judge, Family Court, has also relied on the duration of their marriage while refusing the maintenance. According to the learned Advocate, the duration of marriage or cohabitation of the parties cannot be a consideration while granting interim maintenance. It is submitted that, the Petitioner has voluntarily disclosed all her assets and liabilities in her Application as well as in the affidavit of assets and liabilities. She has filed the ITRs, which clearly discloses that, she is earning Rs. 30,000/- to Rs.35,000/- per month. Her disclosure has been treated as a negative factor to deny her maintenance. An earning Wife cannot be altogether denied interim maintenance. The lifestyle of the respective parties and their respective incomes, are required to be taken into account while entertaining the Interim Application for maintenance. The Judge, Family Court, has totally ignored all these factors necessary for deciding maintenance *pendente lite*. The learned Advocate places reliance on the judgment of ***Rajnish V/s. Neha & Another***¹, in support of his contention that, the status of the parties; the standard of living and the financial status of the non-Applicant have been totally ignored by the Judge, Family Court.

1 (2021) 2 SCC 324

The learned Advocate relies on Paragraph Nos.23 and 24 of the judgment of *Rajnish* (supra) to submit that, independent income of the Wife cannot operate as a bar, while considering her maintenance Application.

15. It is submitted that, the income of the Husband is 61 times of the Wife and considering the disparity in the income of both the parties, the Judge, Family Court, ought to have granted interim maintenance to the Applicant. In support of his contention, he relies on Paragraph No.24 of the judgment of *Rajnish* (supra), wherein it is observed that, sustenance does not mean and cannot be allowed to mean, mere survival. According to him, the Wife is entitled to be maintained with the same standard of living, which she was enjoying during her cohabitation with her Husband. It is, therefore, submitted that, the impugned order passed by the Judge, Family Court, Pune, being contrary to the record and also contrary to the settled principles for grant of interim maintenance, is required to be quashed and set aside.

16. *Per contra*, Mr. Sandesh Shukla, learned Advocate for the Respondent-Husband, at the outset, submits that, the powers of this Court to entertain the Writ Petition under Article 227 of the Constitution of India are very limited. The Family Court has acted within the bounds of its Authority. There is no perversity or breach of

principles of natural justice in passing the impugned order. Therefore, no interference is required in the impugned order since no grounds have been made out by the Petitioner for entertaining the Writ Petition.

17. It is submitted that, the Petitioner is a highly qualified professional and she owns a reputed Architecture firm handling Pune's most lavish and grandeur project. Despite this, she has failed to disclose her actual income and has suppressed her real income. Therefore, she is not at all entitled to any interim maintenance.

18. While disclosing her assets and liabilities, the Petitioner has suppressed the fact that, she has received Rs. 20 lakhs from her ex-husband, along with 10 Tola gold and silver utensils, which amounts to lakhs of rupees. On account of such suppression, since the Petitioner has not come with clean hands, her conduct disentitles her from receiving the maintenance amount. Most importantly, the Petitioner has not disclosed in detail the actual expenses necessary to maintain herself. She being a professional and having an independent source of income, the Family Court has judiciously applied its mind and rejected the Application for interim maintenance.

19. The object of interim maintenance is that, during the pendency of the proceedings between the spouses, neither spouse should be left in a condition, where he/she is unable to maintain himself/herself or

effectively defend the proceedings pending between them. The provision for interim maintenance has been specifically made with an object that, the spouse with no or meager income should not face vagrancy and destitution and is able to defend the legal proceedings.

20. In the present case, the Petitioner has made an exaggerated claim of Rs. 7 lakhs per month. In the case of *Rajnesh* (supra), the Hon'ble Supreme Court has held that, in order to make an objective assessment of the approximate amount to be awarded to the parties, various factors are required to be taken into consideration. The factors which would weigh the Court, *inter alia*, are the status of the parties; the reasonable needs of the Wife and dependent children; the qualifications of the respective parties; whether the Applicant has an independent source of income; whether the income is sufficient to enable her to maintain the same standard of living of which she is accustomed to, in her matrimonial home; and whether she is working during the subsistence of marriage, etc. These factors being illustrative and not exhaustive, it is held that, a careful and just balance has to be drawn between the relevant factors.

21. According to the Respondent, the Applicant herself has stated in her Application that, she is a professional, working as an Architect with a thriving business. She also engages juniors to whom she is making

payment. This itself is indicative of the fact that, if she is able to engage services of junior Architects, she certainly is in a position to maintain herself during the pendency of the proceedings. Though the petitioner has named various holiday destinations, where the parties have visited during the subsistence of their marriage in support of her claim that, the Respondent is accustomed to lavish standard of living, at the same time, she has also claimed that, during the subsistence of marriage, she was the one, who was bearing all the household expenses. Therefore, her own statement supports the stand of the Respondent that, the Petitioner is capable of earning and maintaining herself. The very object of Section 24 of the HMA is to provide support to either of the spouses during the pendency of matrimonial proceedings. According to Mr, Sarwate, the Judge, Family Court, has taken a balanced view of the matter by holding that, the Petitioner is capable of maintaining herself during the pendency of proceedings and accordingly, has rejected her Application for interim maintenance. Hence, the order dated 04.11.2024, passed by the Judge, Family Court No.2, Pune, below Exhibits 5 and 22, does not deserve any interference.

22. I have heard the respective parties and also perused the documents placed on record.

23. The learned Advocate for the Petitioner has relied on the

voluminous record disclosing the assets and liabilities of the Respondent-Husband with the Bank Statements under the head of “Assets owned by the Deponent”, the Respondent-Husband has mentioned that, he owns gold and silver worth Rs. 38 lakhs, which has been reserved as emergency fund. In the list of assets and liabilities, he has disclosed that, he is paying EMI of Rs. 3,75,917/- per month. His net income from business plus other income is shown to be Rs. 15.50 lakhs, which according to him is reinvested for running the business. Though it is claimed by him that, the Petitioner is self-employed Architect with income of not less than 1.25 lakhs, it is not supported by any evidence. On the contrary the income disclosed by the Petitioner, according to her ITRs is Rs. 30,000/- to Rs. 35,000/- per month. Under the head of “General Monthly Expenses” such as rent, household, medical bills, transportation, etc, she has claimed that, her monthly expenses are, Rs. 1 lakh per month with shortcomings. Though she has invested Rs. 10 lakhs in Mutual Funds, the said amount cannot be considered as an amount, which would fetch income for her sustenance during the pendency of the Divorce proceedings.

24. Upon comparison of the income and expenses necessary for the respective parties, it is evident that, the income of the Respondent-Husband is times more than that of the Wife. The Petitioner has stated in the affidavit that, she is doing four to five projects per year and she

charges fees @ 5 to 10% of the project cost. On the other hand, the Respondent-Husband has not disclosed his true income in the affidavit. The learned Advocate for the Petitioner has drawn my attention to the Bank Statements, which forms part of record. Entries dated 28.12.2020, 04.01.2021, 11.01.2021 and 18.01.2021 of its account in HDFC Bank discloses that, the Respondent has deposited Rs. 14,99,999/- in the Fixed Deposits (“FDs”). Entry of the HDFC Bank dated 23.02.2021 discloses that, he has purchased valuables worth Rs. 38 lakhs in one single transaction from P.N. Gadgil Sons & Jewellers, Pune. The Respondent is investing sizeable amounts at regular intervals in the FDs. The various FDs of sizeable amount worth lakhs is disclosed from the Bank Statement of the Respondent. Though the Petitioner is a professional and has her own source of income, she also requires sufficient income for her upkeep and maintenance. In her affidavit of assets and liabilities, she has disclosed that, after separation in June 2021, she is residing in rented premises for which she is required to pay rent. She is also maintaining a car, necessary for her professional commitments, she is required to commute to the sites wherever her work is under progress. Though the Husband has claimed that, she is earning Rs. 1.25 lakhs to Rs. 1.50 lakhs per month from her business, it is not supported by any documents. The Husband has merely placed on record the photographs, which disclose that, she has completed various

sites as an Architect. However, it is not substantiated with any document in support of his claim that she is earning Rs. 1.25 lakhs to Rs. 1.50 lakhs per month. Hence, considering the Petitioner has disclosed her income of Rs. 30,000/- to Rs. 35,000/- per month, which is supported by her ITR, has to be accepted. The Petitioner is residing in city like Pune, though she runs a business, Rs. 30,000/- to Rs. 35,000/-, is not sufficient to maintain one person comfortably.

25. The Judge, Family Court, has heavily relied on the contents of the notice issued by the Petitioner to the Respondent-Husband dated 18.08.2022, to hold that, since the Petitioner has claimed in her notice that, she was maintaining both of them during their cohabitation and the Respondent has never contributed a penny, in such circumstances, it is highly improbable that, the Respondent is earning in crores. This observation of the Judge, Family Court, is erroneous and contrary to the record. The Bank Statements as well as the affidavit of assets and liabilities filed by the Respondent himself disclose that, his income from the two restaurants is lakhs of rupees per month. Even going by his own disclosure made in the affidavit, his net income per month is Rs. 15.50 lakhs. In spite of such disclosure made by the Respondent-Husband, the Judge, Family Court, has totally disregarded the affidavit of assets and liabilities along with the Bank Statements of the Respondent that are placed on record.

26. According to the guidelines of *Rajnish V/s Neha & Anr.* (supra), the affidavit of assets and liabilities is a guiding factor, to assess the income and liabilities of the respective parties. Though the affidavit as well as Bank Statement disclose that, there are lakhs of rupees invested by the Respondent-Husband per month in the FDs, yet a finding is recorded by the Judge, Family Court, that, the claim of Petitioner-Wife is exaggerated and Husband must not be earning such huge amounts.

27. So far as interim maintenance is concerned, it is governed by Section 24 of the HMA. Section 24 of the HMA reads thus :

“24. Maintenance pendente lite and expenses of proceedings.-“Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner’s own income and the income of the respondent, it may seem to the court to be reasonable :

[Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.]”

28. Considering the scope of Section 24 of the HMA, the intention of the Legislature for making such a provision was to provide solace to a Wife to sustain herself during the matrimonial proceedings pending between the parties. In order to avoid vagrancy and destitution, such provision has been made. The Hon’ble Supreme Court and various High

Courts have consistently held that, the scope of Section 24 of the HMA is to enable a person to support themselves with monthly expenses and necessary legal expenses during the pendency of the legal proceedings.

29. The Judge, Family Court, has made certain observations regarding the assets in relation to the income of the Respondent-Husband. The Judge, Family Court, has held that, from the affidavit of the Respondent, it is disclosed that, he does not own any immovable property, if that be so, if his income is in crores as claimed by the Petitioner, he would certainly invest in the immovable properties, as per record, there is no immovable property owned by the Respondent. Based on such assumption, the Judge, Family Court, has arrived at a conclusion that the restaurants owned by the Respondent being new, could not be fetching such huge income, therefore, claim of the Petitioner is an exaggerated claim. While making such observations the Judge, Family Court, has totally ignored the various amounts regularly invested by the Respondent in the FDs in the HDFC Bank.

30. The extracts of Statement of Account of Respondent of Respondent in HDFC Bank, disclose various entries of Rs. 14,99,999/- being invested in FDs at regular intervals, almost each month between 28.12.2020 to 19.02.2024. In spite of huge record disclosing the real income of the Husband, the Judge, Family Court, ignoring the same, has taken a view that, Petitioner has exaggerated the income of the

Respondent and tried to conceal her own income. Such observation is totally unfair and also contrary to the record.

31. The contents of the notice dated 18.08.2022 in which the Petitioner has claimed that, she was maintaining both of them during their cohabitation and spending almost Rs. 20,000/- per month, has been made with an intent to demonstrate the cruelty of the Respondent by not providing sufficiently for their day-to-day expenses. This has been clarified by the Petitioner in her additional affidavit. Even otherwise, after going through the notice dated 18.08.2022, it is evident that, such a statement has been made to demonstrate that, the Respondent was not contributing towards the household expenses. The contents of notice are relied by the Judge, Family Court to deny the grant of interim maintenance to the Petitioner. Such observations and findings are totally perverse and contrary to the record.

32. So far as the object of grant of interim maintenance is concerned, the consistent view taken by the Courts is that, the income of the respective parties and their expenses are the decisive factors. Since the award of interim maintenance is a temporary measure, a detail and elaborate exercise by the Court is not expected. The Courts have to be alive to the situation and relevant factors and not grant disproportionate and exorbitant maintenance that would be onerous to

either of the parties.

33. In the case of *Rajnesh* (supra), the Hon'ble Supreme Court has taken an overall view of the provision of maintenance in various enactments and has laid down the guidelines to be followed while granting maintenance. The Hon'ble Supreme Court has taken into consideration the various judicial pronouncements made on the different issues under different enactments, based on which common guidelines have been laid down by the Hon'ble Apex Court in the aforementioned judicial pronouncement.

34. So far as the present case is concerned, it would be governed by Paragraph Nos.77 to 81 of the judgment of *Rajnesh* (supra), which reads thus :

“77. The objective of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

78. The factors which would weigh with the court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the applicant is educated and professionally qualified; whether the applicant has any independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife.

79. In Manish Jain v. Akanksha Jain [Manish Jain v. Akanksha Jain, (2017) 15 SCC 801 : (2018) 2 SCC (Civ) 712] this Court held that the financial position of the parents of the applicant wife, would not be material while determining the quantum of maintenance. An order of interim maintenance is conditional on the circumstance that the wife or husband who makes a claim has no independent income, sufficient for her or his support. It is no answer to a claim of maintenance that the wife is educated and could support herself. The court must take into consideration the status of the parties and the capacity of the spouse to pay for her or his support. Maintenance is dependent upon factual situations; the court should mould the claim for maintenance based on various factors brought before it.

80. On the other hand, the financial capacity of the husband, his actual income, reasonable expenses for his own maintenance, and dependent family members whom he is obliged to maintain under the law, liabilities if any, would be required to be taken into consideration, to arrive at the appropriate quantum of maintenance to be paid. The court must have due regard to the standard of living of the husband, as well as the spiralling inflation rates and high costs of living. The plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able-bodied and has educational qualifications.

81. A careful and just balance must be drawn between all relevant factors. The test for determination of maintenance in matrimonial disputes depends on the financial status of the respondent, and the standard of living that the applicant was accustomed to in her matrimonial home. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] The maintenance amount awarded must be reasonable and realistic, and avoid either of the two extremes i.e. maintenance awarded to the wife should neither be so extravagant which becomes oppressive and unbearable for the respondent, nor should it be so meagre that it drives the wife to penury. The sufficiency of the quantum has to be adjudged so that the wife is able to maintain herself with reasonable comfort.”

35. Upon perusal of the factors as laid down in the aforementioned paragraphs, the case of the Petitioner would stand squarely covered by it, which supports her entitlement to receive interim maintenance. Although it is the stand of the Respondent that, the Petitioner being an

Architect, has her own source of income, hence, she is not entitled for any maintenance. The following observations made in Paragraph Nos.90 to 90.5 of the judgment of *Rajnesh v/s Neha* (Supra), negates the claim of the Respondent-Husband, which read thus:

“90. The courts have held that if the wife is earning, it cannot operate as a bar from being awarded maintenance by the husband. The courts have provided guidance on this issue in the following judgments:

90.1. In Shailja v. Khobbanna [Shailja v. Khobbanna, (2018) 12 SCC 199 : (2018) 5 SCC (Civ) 308; See also the decision of the Karnataka High Court in P. Suresh v. S. Deepa, 2016 SCC OnLine Kar 8848 : 2016 Cri LJ 4794 (Kar)] , this Court 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. [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316 : (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] Sustenance does not mean, and cannot be allowed to mean mere survival.

90.2. In Sunita Kachwaha v. Anil Kachwaha [Sunita Kachwaha v. Anil Kachwaha, (2014) 16 SCC 715 : (2015) 3 SCC (Civ) 753 : (2015) 3 SCC (Cri) 589] the wife had a postgraduate degree, and was employed as a teacher in Jabalpur. The husband raised a contention that since the wife had sufficient income, she would not require financial assistance from the husband. The Supreme Court repelled this contention, and held that merely because the wife was earning some income, it could not be a ground to reject her claim for maintenance.

90.3. The Bombay High Court in Sanjay Damodar Kale v. Kalyani Sanjay Kale [Sanjay Damodar Kale v. Kalyani Sanjay Kale, 2020 SCC OnLine Bom 694] while relying upon the judgment in Sunita Kachwaha [Sunita Kachwaha v. Anil Kachwaha, (2014) 16 SCC 715 : (2015) 3 SCC (Civ) 753 : (2015) 3 SCC (Cri) 589] , held that neither the mere potential to earn, nor the actual earning of the wife, howsoever meagre, is sufficient to deny the claim of maintenance.

90.4. An able-bodied husband must be presumed to be capable of earning sufficient money to maintain his wife and children, and cannot contend that he is not in a position to earn sufficiently to maintain his family, as held by the Delhi High Court in Chander Parkash v. Shila Rani [Chander

Parkash v. Shila Rani, 1968 SCC OnLine Del 52 : AIR 1968 Del 174] . The onus is on the husband to establish with necessary material that there are sufficient grounds to show that he is unable to maintain the family, and discharge his legal obligations for reasons beyond his control. If the husband does not disclose the exact amount of his income, an adverse inference may be drawn by the court.

90.5. This Court in Shamima Farooqui v. Shahid Khan [Shamima Farooqui v. Shahid Khan, (2015) 5 SCC 705 : (2015) 3 SCC (Civ) 274 : (2015) 2 SCC (Cri) 785] cited the judgment in Chander Parkash [Chander Parkash v. Shila Rani, 1968 SCC OnLine Del 52 : AIR 1968 Del 174] with approval, and held that the obligation of the husband to provide maintenance stands on a higher pedestal than the wife.”

36. In the present case, though the Petitioner is earning, the income of the Petitioner is not sufficient to maintain herself and to bear the cost of litigation as well. The affidavit of assets and liabilities disclose that, the expenses for her upkeep and maintenance are to the extent of Rs. 1 lakh per month. Though the Respondent has resisted the claim of the Petitioner, by claiming that, her income is Rs. 1 lakh to Rs. 1.50 lakhs per month, he has failed to prove it. The prayer of the Petitioner being for interim maintenance, the Court has to arrive at a reasonable amount on the basis of material on record. In my opinion, though the Petitioner has claimed Rs. 7 lakhs per month towards interim maintenance, it would be appropriate to grant Rs. 1 lakh per month, which has been claimed by the Petitioner in her affidavit towards necessary expenses for her maintenance and legal expenses.

37. In view of the aforementioned observations, the order dated 04.11.2024, passed by the Judge, Family Court No.2, Pune, below

Exhibits 5 and 22, being arbitrary and contrary to the record, is quashed and set aside. The **Writ Petition is partly allowed**. The Respondent husband is directed to pay Rs. 1 lakh per month to the Petitioner towards interim maintenance during the pendency of the proceedings.

38. **Rule** is made absolute in the above terms.

[MANJUSHA DESHPANDE, J.]

39. After pronouncement of the Judgment, the learned Advocate for the Respondent makes a request to stay the implementation of the Judgment for a period of 6 weeks, so as to enable him to assail the Judgment before the Hon'ble Supreme Court. Considering the request made by the Respondent, in my opinion, it would be appropriate to grant stay to the implementation of the Judgment for a period of 4 weeks, for the Respondent to approach the Hon'ble Supreme Court.

[MANJUSHA DESHPANDE, J.]