

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.539 OF 2024

Priti Amit Rita	...Petitioner
<i>Versus</i>	
Amit Premji Rita & Anr.	...Respondents

WITH
CRIMINAL WRIT PETITION NO.3769 OF 2024

Amit Premji Rita	...Petitioner
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

Dr. Samarth Shrikant Karmarkar a/w. Mr. Parag Mishra i/b. Karmarkar & Associates, for the Petitioner in WP/539/2024 and for the Respondent No.2 in WP/3769/2024.
Mr. Vaibhav Bagade a/w. Mr. Aman Kothari and Mr. Santosh Pawar and Mr. Gaurav Kalekar, for the Petitioner in WP/3769/2024 and for the Respondent No.1 in WP/539/2024.
Mr. A. R. Metkari, APP for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 7th APRIL 2025

PC:-

1. The challenge in these Writ Petitions filed under Article 227 of the Constitution of India is to the order dated 1st March 2023 passed by the learned Metropolitan Magistrate, 44th Court, Andheri, Mumbai in Interim Application filed under Section 23(2) of the Protection of Women from Domestic Violence Act, 2005

(“D.V. Act”) filed in C.C. No.138/DV/2019 as well as to the order dated 21st December 2023 passed by the learned Additional Sessions Judge, Borivali Division, Dindoshi, Mumbai in Criminal Appeal No.109 of 2023. By the impugned order dated 1st March 2023, the learned Metropolitan Magistrate has granted interim maintenance of Rs.60,000/- per month to the Respondent-Wife and the child. Learned Additional Sessions Judge has reduced the said amount of maintenance from Rs.60,000/- to Rs.45,000/- per month. The order granting maintenance is challenged by the Husband-Amit Premji Rita by filing Writ Petition No.3769 of 2024 and the Wife-Priti Amit Rita has challenged the order of reduction of maintenance by filing Writ Petition No.539 of 2024.

2. It is the submission of learned Counsel appearing for the Petitioner-Husband that the Respondent-Wife is practicing Advocate. However, learned Counsel appearing for the Respondent-Wife states that although the Respondent-Wife has passed her Bachelor of Laws (LLB) examination in the year 2009, however, for a period of 2009 to 2022 she was not practicing and thereafter, in the year 2022 she started practicing as an Advocate.

It is also an admitted position that since December 2024, the Respondent-Wife has also been appointed as Notary.

3. It is the submission of the Respondent-Wife that the Petitioner-Husband is earning huge income and as soon as the D.V. proceedings are filed, very limited income is shown in the Income Tax Return. It is submitted that the Petitioner-Husband is having relationship outside marriage and not even ready to pay maintenance to the daughter. It is also submitted that the Petitioner-Husband has falsely represented to the learned Trial Court that the stay has been granted when this Court has never granted stay. Learned Counsel submits that the arrears of maintenance are about Rs.26,95,000/-.

4. Perusal of the record shows that the marriage between the Petitioner-Husband and the Respondent-Wife was solemnized on 18th February 2006. The date of birth of child is 9th May 2012. It is an admitted position that the child is being maintained by wife. It is also an admitted position that the parties are staying separately since 24th May 2018 and the Respondent No.2-mother is single-handedly looking after the child. It is the allegation in the D.V.

proceedings that the Petitioner-Husband is having live-in-relationship with some other lady since the year 2019.

5. Perusal of the record further shows that income tax returns filed by the Petitioner-Husband in the year 2018 in the balance-sheet shows income of Rs.1,09,46,770/-. As already noted, the dispute started in the year 2018-2019. As far as the income tax returns of the year 2019-2020 is concerned, the gross total income is shown as Rs.7,46,435/-.

6. In any case this is a case where an amount of Rs.26,95,000/- is outstanding even as per the order passed by the learned Additional Sessions Judge, by which maintenance of Rs.60,000/- has been reduced to Rs.45,000/-. Thus, the Petitioner-Husband is not ready to pay maintenance to the child.

7. Apart from that, it is required to be noted that at no point of time this Court has granted any ad-interim relief to the Petitioner-Husband. However, the Application has been filed in said D.V. proceedings on 21st March 2025 specifically stating that the High Court has granted ad-interim relief. In fact, this Court's order dated

19th March 2025 specifically states that “ad-interim relief or interim relief, if any granted earlier will continue to operate till next date”. It is an admitted position that there is no any ad-interim or interim relief granted to the Petitioner-Amit Premji Rita earlier. Thus, it is very clear that totally false statement has been made before the learned Metropolitan Magistrate. Mr. Vaibhav Bugade, learned Counsel appearing for the Petitioner-Husband states that the said statement is inadvertently made. He tenders unconditional apology.

8. Thus, no interference in the impugned orders is warranted at the instance of the Petitioner-Husband in the equitable jurisdiction under Article 227 of the Constitution of India.

9. As far as the challenge raised by the Wife to the reduction of maintenance from Rs.60,000/- to Rs.45,000/- per month by the learned Appellate Court, considering the facts and circumstances of this case, particularly as Respondent-Wife is now practicing as an Advocate and also she has been appointed as notary, no interference in the impugned order dated 21st December 2023 passed by the learned Additional Sessions Judge, Borivali Division,

Dindoshi, Mumbai in Criminal Appeal No.109 of 2023 reducing maintenance from Rs.60,000/- to Rs.45,000/- is warranted under the writ jurisdiction of this Court under Article 227 of the Constitution of India.

10. Accordingly, both the Writ Petitions are dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]