

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2532 OF 2025

Mr. Vallabh Rajesh Dongre
through POA holder
Mrs. Ranjana Rajesh Dongre
Age :- 34 years, Occu- Student
R/at. Village Masvan, Post-Masvan,
Taluka and District- Palghar

...Petitioner

Versus

Mrs. Pooja Vallabh Dongre
Alias Pooja Sudhakar Sankhe
Age :-35 years, Occu-Service
R/at-B/601/ Royal Galaxy, Gokul Nagar,
Behind Navneet Motors,
District-Thane-West, Thane-400 601

...Respondent

Ms. Babita P. Pandey a/w Mr. Dinesh R. Sonawane, for the Petitioner.
Mr. Anil D'Souza a/w Mr. Shailesh Redekar, Ms. Nidhi Gupta, Ms.
Mohini Thorat, Ms. Janhavi Nijampurkar i/b. Mr. Yogesh
Rawool, for the Respondent.

CORAM : MANJUSHA DESHPANDE, J.
RESERVED ON : 23RD SEPTEMBER 2025.
PRONOUNCED ON : 10TH OCTOBER 2025

JUDGMENT :-

1. **Rule.** Rule made returnable forthwith, heard finally with the consent of parties.

2. This is an unusual Petition filed by the Petitioner-Husband challenging the rejection of his Application filed under Section 24 of the Hindu Marriage Act, 1955 (for short “**the HMA**”). The Petitioner challenges order dated 08.11.2024, below Exhibit 23, in Petition No.A-532 of 2022, passed by the Judge, Family Court, Thane (Court No.2), rejecting his prayer for grant of interim maintenance under Section 24 of the HMA.

3. The brief facts of the case of the Petitioner, shorn of unnecessary details are that, the Petitioner-Husband and the Respondent-Wife were married on 27.02.2021 at Palghar, according to Hindu Rites and Customs. After marriage, the Respondent accompanied the Petitioner to reside with him at Dublin, Ireland. The Petitioner was pursuing his post-graduation studies at Ireland. While residing at Dublin, Ireland, the relations between the parties got strained. There was a serious discord between them. As a result of which, the Respondent-Wife filed a complaint of Domestic Violence against the Petitioner at Dublin, Ireland, as well as a Divorce Petition No.A-532 of 2022, before the Family Court at Thane, for dissolution of marriage on the ground of cruelty. Since the Petitioner as well as Respondent were residing

at Dublin, Ireland, they were represented by the respective Power of Attorney Holders in the proceedings before the Family Court, Thane.

4. During the pendency of the Divorce proceedings, the Petitioner filed an Application for maintenance under Section 24 of the HMA on 24.11.2023. The Petitioner claimed maintenance of Rs. 60,000/- per month towards day-today expenses and Rs. 15,000/- per month for legal expenses from the Respondent-Wife. The Petitioner has claimed maintenance from Wife contending that, he has been enrolled for MA in International Business in CCT College, Dublin for a duration of 2 years, starting from September 2023 to February 2025, for which, the entire course fees is paid by his mother. He has no source of income at the moment and his other expenses such as residence and food are also being borne by his mother.

5. It is his contention that, due to registration of Domestic Violence complaint by the Respondent against him, all his avenues for procuring employment have been closed. Therefore, he is rendered helpless without any job and any money for his day-

today sustenance while he is pursuing his education. Whereas the Respondent-Wife is employed as Research Analyst at Behavior and Attitudes, Dublin, Ireland, and drawing a salary of 2239.93 Euro, which comes to approximately Rs. 2,03,588/-, as such, she has sufficient resources to maintain him. He has no source of income and considering that he is totally dependent on his mother, who has already paid for his educational expenses, it is the duty of Wife under Section 24 of the HMA to maintain her Husband, if he has no independent sufficient source of income for his support during the pendency of the proceedings under the HMA, 1955.

6. Ms. Babita Pandey, learned Counsel appearing for the Petitioner submits that, the first and foremost ground of challenge by the Petitioner is that, the Judge, Family Court, has failed to adhere to the principles of natural justice by not affording sufficient opportunity of being heard to the Petitioner. As a result of which, great prejudice has been caused to the Petitioner. According to her, the Petitioner is constrained to file an Application under Section 24 of the HMA due to the conduct of the Respondent. He is still pursuing his Education at Dublin. He has no independent source of income and whatever he was earning by

doing some random jobs are not available to him now due to the Domestic Violence case filed by the Respondent-Wife, which reflects in his social status. Even though he has tried his best to secure employment, the registration of complaint against him comes in his way of securing employment.

7. It is further submitted that, the Respondent is in employment and is drawing a salary of 2239.93 Euros. Therefore, she is duty-bound to maintain the Petitioner during the pendency of the proceedings before the Family Court, as contemplated under Section 24 of the HMA. All the necessary conditions for eligibility to receive maintenance under Section 24 of the HMA, have been fulfilled by the Petitioner. It is only on account of the litigation initiated by the Respondent, the Petitioner is unable to secure employment, resultantly, his mother is constrained to bear his day-to-day as well as the legal expenses of the litigation. After marriage, during pendency of proceedings between the spouses, it is the duty of an earning Wife to maintain a Husband, who does not have sufficient resources to maintain himself. Section 24 of the HMA does not discriminate on the basis of gender.

8. The learned Counsel appearing for the Petitioner submits that, though she had filed Application seeking certain documents from the Respondent, to substantiate the claim of the Petitioner, by keeping the Application for production of such documents pending, the Application of the Petitioner has been decided by the Family Court hastily. As a result of which, she has been deprived of her right to represent her case adequately and appropriately before the Family Court.

9. During the proceedings before the Family Court, she was given to understand that, her pending Applications will be decided alongwith the Application filed under Section 24 of the HMA. However, in spite of such assurance, her Application is kept pending and the Application filed under Section 24 of the HMA has been disposed of by the Family Court thereby causing grave injustice to her.

10. The learned Counsel appearing for the Petitioner relies on the affidavit of assets and liabilities filed by the Respondent to substantiate her claim seeking maintenance against the Wife. She has drawn my attention to the affidavit of assets and liabilities filed

by the Respondent, which discloses her monthly income of 2383.35 Euros per month.

11. Reliance is also placed on statement issued by the Department of Social Protection on 19.06.2023, which shows the income generated by the Petitioner during the period from 01.01.2020 to 19.06.2023 as zero Euro.

12. It is further contented that, the Respondent has concealed the property details of her parents in the affidavit of assets and liabilities and also suppressed, the ownership of her flat situated at Virar West. Additionally, she is also drawing rent from the properties owned by her as well as her parents. Therefore, the Respondent-Wife is in a very strong financial position. Thus, considering the strong financial status of Wife and Petitioner's inability to secure employment, the impugned order is required to be quashed and set aside by granting him maintenance of Rs. 60,000/- per month and legal expenses of Rs. 15,000/- per month from the Respondent-Wife.

13. Mr. Anil D'Souza, learned Counsel appearing for the Respondent has strongly opposed the claim of the Petitioner. It is

his contention that, the impugned order is passed only after taking into consideration the scope of Section 24 of the HMA. The Petitioner has challenged the order dated 08.11.2024, invoking Article 227 of the Constitution of India. The scope for interference in the orders passed by the Subordinate Courts by invoking powers under Article 227 of the Constitution of India is very limited. It is only in case of jurisdictional error or breach of principles of natural justice or in case of blatant arbitrary order, the Court can interfere in the impugned order. In the present case, none of the conditions for invoking jurisdiction of this Court under Article 227 of the Constitution of India are attracted. Therefore, this Court may not cause any interference in the impugned order.

14. It is submitted that, the interim maintenance granted under Section 24 of the HMA is a temporary arrangement during the pendency of the proceedings between the spouses. Only in case the Applicant is able to demonstrate that, he/she is not able to maintain himself/herself and ably defend the pending proceedings and the Respondent is having a sufficient source of income, the order of interim maintenance can be issued. In the present case, firstly, the Petitioner is an able bodied person. Therefore, he is

capable of maintaining himself during the pendency of the proceedings. In spite of holding sufficient qualifications, he is still continuing his education for betterment of his qualifications. Therefore, he cannot burden the Wife for his day-to-day expenses during such period of betterment of his qualifications.

15. Even otherwise, he belongs to a well-to-do family having various sources of income. His parents having retired are having their own source of income. Therefore, there is no dependency on him. The Petitioner-Husband has been residing in Dublin, Ireland, since prior to their marriage and pursuing his education as well as taking care of his expenses to the exclusion of the Respondent. Therefore, he cannot burden the Respondent for the expenses required for his day-to-day sustenance. He cannot sit idle and seek maintenance from his Wife.

16. Though the Respondent is earning her livelihood and she has also disclosed her income in her affidavit of assets and liabilities as 2383.35 Euros per month, but the fact remains that, her salary is consumed for her own monthly maintenance such as, rent; bills; electricity; mobile; conveyance; groceries; medicines; EMI. At the

end of the month, she is not able to save anything from her meager salary. The Petitioner has suppressed that, his father, who was employed in the Sales Tax Department, has received retirement benefits of almost 80 lakhs and he received pension of Rs. 50,000/- per month till his death. Even after his death, all the post-retiral benefits are left behind by him, in favour of the Petitioner and his mother. Similarly, his mother is also drawing a generous pension of Rs. 60,000/- per month.

17. It is further submitted that, the Petitioner has concealed the existence of his other bank accounts such as, IndusInd Bank, Axis Bank, the State Bank of India and Forex Account. The details of all these banks are not given by the Petitioner as per the guidelines issued by the Hon'ble Supreme Court in the judgment of *Rajnesh V/s. Neha & Another*¹.

18. According to the Respondent, the Petitioner has not availed any educational loan or financial assistance for his degree in Level 8 QQI Higher Diploma and for his present course of MA International Business in CCT College Dublin, which has a course

¹ (2021) 2 SCC 324

fee of 7,900 Euros. This itself reflects the strong financial background of the Petitioner.

19. So far as the contention of the Petitioner that, because of the Domestic Violence complaint filed against him at Dublin, Ireland, he is not able to secure any job is concerned, it is submitted that, the filing of Domestic Violence complaint does not disentitle the Petitioner from securing job. If the Petitioner is taking any such ground, he has to prove it by adducing evidence in support of it. He has not proved the defence taken by him. Therefore, the Petitioner, being an able bodied young person with good qualifications, is not entitled to claim maintenance from a Wife, who is earning only to the extent of bare survival. The Wife is not in a position to spare any additional amount for the maintenance of an able bodied and qualified Husband.

20. The learned Counsel appearing for the Respondent has placed reliance on the following judgments :

(i) *Anju Garg V/s. Deepak Kumar Garg*²;

(ii) *N. Girish V/s. N. Kusuma*³; and

² 2022 SCC Online SC 1314

³ 2023 SCC Online Kar 119

(iii) *Bharat Hegde V/s. Saroj Hegde*⁴,

In order to draw support to his submission that, a Husband, who is an able bodied and holding sufficient qualifications cannot claim maintenance from the Wife during the pendency of the proceedings under Section 24 of the HMA.

21. After the submissions made by the learned Advocate for the Respondent, the Petitioner has made counter submissions in respect of the assets of the Petitioner as well as the property, which according to the Respondent stands in his name. According to the Petitioner though she has claimed so, it is not supported by any documentary proof, therefore, it does not depict the true and correct picture. He has no source of income due to the registration of Domestic Violence complaint against him. As regards the four properties in which it is claimed that, he has 1/3 share each, it is submitted that, his family is presently residing in one of the property; one property is under redevelopment; one property is owned by his mother; and the fourth property is not in existence at all. Therefore, he does not have any additional source of income.

⁴ 2007 (96) DRJ 110 (Delhi High Court)

22. The learned Counsel, Ms. Babita P. Pandey, appearing for the Petitioner places reliance on the case of *Bhagyashri w/o. Jagdish Jaiswal V/s. Jagdish S/o. Sajjanlala Jaiswal & Anr.*⁵, in support of her arguments to contend that, even a Husband, who is an indigent spouse can claim maintenance *pendente lite*.

23. I have heard the parties, and perused the record along with the affidavit of assets and liabilities; and the impugned order dated 08.11.2024.

24. As stated in the beginning, this is an unusual case, wherein the Husband is seeking maintenance from the Wife. It is not his case that, he is not qualified or is in any way disabled. It is his contention that, due to the disqualification suffered by him on account of filing of Domestic Violence complaint by the Wife, he is not able to secure employment in Dublin, Ireland. Though the Petitioner has made an averment in the Writ Petition that, the Respondent has sought protection order against the Petitioner due to which, he is not able to secure any part-time employment, but after going through the Application filed before the Family Court , Thane for maintenance under Section 24 of the HMA, I do not find

⁵ Writ Petition No.2527 of 2021 dated 26th February 2022.

any such averment made by the Petitioner in his Application seeking interim maintenance. The only averment in his Application is that, the Respondent-Wife is earning generous salary, since she has filed proceedings she is bound to maintain him, as he has no source of income.

25. Since they are legally wedded, it is the duty of the Wife to maintain the Petitioner during the pendency of the Divorce proceedings including paying for his educational and litigation expenses. The only ground raised by the Petitioner before the Family Court is that, since he is pursuing his education, he has no source of income, his expenses are borne by his mother and he is compelled to face such situation due to the proceedings filed by the Respondent, it is, therefore, her duty to maintain him. More particularly, in view of the fact that she is employed and earns 2383.35 Euros per month.

26. Section 24 of the HMA, 1955, 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. Admittedly, Section 24 of the HMA does not discriminate between Husband and Wife, so far as grant of interim maintenance is concerned. However, it is subject to fulfillment of certain conditions. The first condition is that, a spouse making an Application does not have any independent source of income sufficient to support the day-to-day expenses and to cover necessary legal expenses of the proceedings. The second requirement is that, the spouse against whom the maintenance is claimed, is in a position to make payment from available resources.

29. In the present case, the Petitioner places reliance on the affidavit of assets and liabilities filed by the Respondent-Wife. Upon perusal of the affidavit of assets and liabilities filed by the Respondent, it is disclosed that, she is working as Research Analyst at Dublin, Ireland, with monthly income of Rs.

2383.35 Euros. Under the head of 'Expenses', it is disclosed that, the rent of the place where she is residing is 1,000 Euros per month; Electricity and Heating Bill is approximately 200 Euros per month; expenses towards food is 250 Euros; medicines 200 Euros; and WIFI as well as expenses for commutation is 322 Euros per month. After deducting the household and other necessary expenses, hardly anything remains from her income at the end of the month.

30. So far as the assets owned by the Respondent-Wife is concerned, she has disclosed that, she owns 1 BHK flat at Global City, Virar West, which she has purchased with the aid of housing loan of Rs. 31,31,000/- for which she is required to pay EMI of Rs. 21,954/-. Therefore, considering the income and expenditure as disclosed in the affidavit of assets and liabilities, there hardly remains any balance amount after deduction made for the monthly expenses and the EMI towards the housing loan.

31. In the same affidavit, the information regarding the assets and liabilities of the Petitioner, is given it is claimed by

the Respondent that, he is earning 3000 Euros per month and has an income from agriculture to the extent of Rs. 5 lakh per year. It is also claimed that, he has 1/3 share in four properties.

32. Though the parties have made conflicting claims against each other with regard to their assets and other sources of income, at the outset, it is necessary to appreciate whether the claim of the Petitioner is maintainable in view of the prayer made by him. So far as the prayer of the Petitioner for interim maintenance is concerned, burden is on the Petitioner to prove that, he is unable to maintain himself during the matrimonial proceedings filed under the provisions of the HMA.

33. As per the averments made by the Petitioner, he is pursuing MA in International Business in CCT College, Dublin. He is a young man and an able bodied person, he is not suffering from any disabilities, either mental or physical. He is holding adequate qualifications. Therefore, he can very well earn his livelihood. Merely, because some complaint of Domestic Violence is registered against him, cannot be an

impediment for him to seek employment for his sustenance while pursuing his education. As such, he can certainly earn his livelihood.

34. Section 24 of the HMA is a beneficial Legislation aimed at granting relief to the spouses, who are not in a position to take care of themselves as well as the expenses of litigation, pending between them. So far as the Husband is concerned, unless he is physically or mentally disabled, it is presumed that, if he is an able bodied person, he should earn his own livelihood as well as support his family.

35. Although it is the case of the Petitioner that, due to the Domestic Violence complaint filed by the Wife, he is unable to secure employment, there is no such averment in his Application, neither has he proved it by producing any evidence. The very object behind Section 24 of the HMA is that, a spouse should not be deprived of his sustenance and he should be able to defend himself appropriately during the legal proceedings. The Petitioner, who is an able bodied person with a sound financial background, is residing out of India in

Dublin, Ireland, by incurring expenses, sponsored by the family, itself gives rise to the conclusion that, he is very much in a sound financial position and is capable to maintain himself.

36. The Judge, Family Court, has rightly taken into consideration the object of Section 24 of the HMA. The scope for granting maintenance to a Husband under the said provision arises only after considering various facets of the matter, the order impugned has been passed accordingly. The Judge, Family Court, has also taken note of the observations made in various judicial pronouncements by the Hon'ble Supreme Court, which deprecate the practice of granting maintenance to an able bodied Husband. The impugned order being a well-reasoned one; with no error apparent on the face of record does not warrant any interference.

37. Even otherwise, considering that the scope of interference by this Court in its jurisdiction under Article 227 of the Constitution of India being limited to the extent of jurisdictional error or breach of principles of natural justice,

none of the grounds have been made out in the Writ Petition for causing any interference in the order dated 08.11.2024, passed by the Judge, Family Court, Thane.

38. Rule is discharged.

(MANJUSHA DESHPANDE, J.)