

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**CONTEMPT PETITION NO. 179 OF 2025
IN
WRIT PETITION NO. 4490 OF 2024**

Komal Kushal Kamble & Anr.

...Petitioners

Versus

Kushal Kaluram Kamble & Anr.

...Respondents

Mr. Mohit Khanna a/w Mr. Shamant Satiya a/w Ms Priyanka Mehta i/b Mr. Pravin B. Patil for the Petitioners.

Mr. Asadali Z. Mazgaonwala a/w Ms Tanvi Shah i/b Mr. Asadali Z. Mazgaonwala for Respondent No. 1.

Adv. J. P. Patil, AGP for the Respondent-State.

CORAM: MANJUSHA DESHPANDE, J.

DATE : 10th JULY 2025

P.C.:

1. The Petitioners have alleged that the Respondent No. 1 has committed contempt of the order passed by this Court on 29th November 2024. By the order dated 29th November 2024 this Court had directed Respondent No. 1 to pay Rs.10,000/- per month each to the wife and the child and the arrears were directed to be cleared within a period of eight weeks from the date of uploading of the Judgment.

2. It is the contention of the Petitioners that, in spite of the orders passed by this Court, no payment has been made by Respondent No.1. Therefore, they are constrained to file Contempt Petition. After filing of the Contempt Petition a simple notice came to be issued on 2nd April 2025. On 13th June 2025, the Advocate for Respondent No. 1 appeared in the matter and made a statement that she would take instructions about the deposit of 50% of the arrears of maintenance.

3. The Contempt Petition is filed on the background of the medical emergency faced by the Petitioner, who was advised by the doctor to undergo a Biopsy. On 17th June 2025, when the matter was again listed before this Court, the Advocate for the Respondent No. 1 came with a chart of calculation of arrears containing the dates on which the Respondent No. 1 proposed to make payment. A Demand Draft of Rs. 2 lakhs was handed over to the Advocate for the Petitioners.

4. Since the Respondent No. 1 had not filed response to the Contempt Petition, he was directed to file affidavit calling upon him as to why contempt action should not be initiated against him. Respondent No. 1 has filed an affidavit. When the matter

was listed on 1st July 2025, a detailed order was passed by this Court. It was observed in the order that, the Advocate for Respondent No.1 has filed an affidavit and he has come with the proposal for clearing the arrears of maintenance by making payment in installments starting from 17th June 2025 to 15th February 2027, by which he proposes to make payment of Rs. 1 lakh per month vide Bank transfer for clearing the arrears of maintenance.

5. It was brought to my notice by the learned Counsel for the Petitioners, that the schedule of payment given by Respondent No. 1 is only for the arrears, and so far as the monthly maintenance is concerned, it was not included in the schedule. In order to explore the possibility of settlement between the parties, the matter was adjourned at the request of the learned Counsel for Respondent No. 1, who stated that he would come with a revised payment schedule for installments. The Respondent No. 1 had also undertaken to arrange for payment of Rs. 3 lakhs to the Petitioner on the next date.

6. This Court has observed that the Respondent No. 1 has not complied with the orders passed by this Court from time to time.

7. Considering the health condition of the Petitioner and immediate financial support needed for her in her treatment, as prescribed by the doctors, it is thought appropriate to allow the parties to explore the possibility of settlement.

8. When the matter is called out today, learned Advocate for Respondent No. 1 has produced Demand Draft of Rs. 3 lakhs, which is handed over to learned Advocate for the Petitioners. He has also filed an affidavit in which he has annexed the revised schedule of payment, in which he has undertaken to pay Rs.1,20,000/-per month by a Bank transfer starting from 18th August 2025 to 15th September 2026. According to him, he is unable to make payment beyond the aforementioned amount each month.

9. Financial constraints or inadequacy cannot be a valid defense for a husband to refuse payment and comply the orders passed by the Courts. So far as the present Contempt Petition is concerned, it is very much apparent that Respondent No. 1 has been directed to pay Rs.10,000/- per month each to the wife and the child only after taking into consideration his financial capacity.

10. Learned Counsel for the Petitioners has taken this Court through the Bank Statement of Respondent No.1, which is of the Indian Bank with Account No.6898693293. His Bank Statement reflects huge amounts credited as well as the balance shown is ranging from Rs.6,17,966/-. It is also brought to my notice that the cheque of Rs.3,00,000/- and Rs.2,00,000/- issued in favour of the Petitioner are from the very account which he claims to be the company, which he has transferred in the name of his brother recently. The learned Counsel for Respondent No. 1 disputes the same and submits that those Demand Drafts were not issued from the business account, from the account of his mother. Respondent No. 1 in his affidavit, has placed on record the documents pertaining to the said proprietary firm. The registration of the business of the Respondent under the Ministry of Micro, Small and Medium Enterprises (for short “MMSME”), reflects that his business enterprise ‘*I Vision Optic*’ has been registered in his name with the address at Parmar Plaza, Shop No. 5-25, Wanwadi, Pune. The registration of shop of ‘*I Vision Optic*’ under the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2018, shows that the shop has been registered in the name of his brother on 6th May

2024, for which an application was made on 15 October 2020. All these documents placed on record reflect that, in order to avoid the payment of maintenance to the Petitioner, Respondent No.1 has transferred the business in favour of his brother. Respondent No. 1 has come with the case that he does not have source of income to clear the arrears of maintenance and even to pay the monthly maintenance to the Petitioner.

11. Fact remains that Respondent No. 1, in spite of granting opportunities to clear the arrears of the maintenance, has failed to comply with the orders of this Court. Therefore, I am convinced that Respondent No. 1 has shown blatant disregard to the order passed by this Court by not complying the said order, for which he has failed to give any satisfactory explanation. Hence, I am of the view that the Respondent has shown blatant disregard to the orders passed by this Court and, thereby, deliberately committed contempt of the orders passed by this Court in Writ Petition No. 4490 of 2024 dated 29th November 2024, which needs to be dealt with in accordance with the provisions of Contempt of Courts Act.

12. Issue Notice of Contempt to the Respondent No. 1- Kushal Kaluram Kamble for having committed contempt of order dated

29th November 2024, in format as provided under Chapter -
XXXIV, Rule - 9 of the Bombay High Court Appellate Side Rules,
1960, returnable on **31st July 2025**.

[MANJUSHA DESHPANDE, J.]

Digitally
signed by
RUSHIKESH VISHNU
PATIL
Date:
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