

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1151 OF 2025

Sachin Ravindra Barhate

...Petitioner

Versus

Sushma Sachin Barhate & Ors.

...Respondents

Mr. Manoj M. Gadkari (through Video Conference) for the
Petitioner.

Ms. Anuja S. Gotad, APP, for the Respondent No.-3-State.

CORAM: MADHAV J. JAMDAR, J.

DATED : 12th MARCH 2025

PC:-

1. Heard Mr. Manoj Gadkari, learned Counsel appearing for the
Petitioner.

2. By the present Writ Petition filed under Article 227 of the
Constitution of India, the challenge is to the legality and validity of
the order dated 14th February 2025 passed by the learned JMFC,
Court No.9, Pune below Exhibit-89 in Criminal Miscellaneous
Application No.5587 of 2017. The Operative Part of the impugned
order dated 14th February 2025 reads as under:

“ORDER

1. Application Exh.89 is hereby allowed.

2. Respondent is directed to produce following documents on or before next date.

a. Bank Statements of the Amartya Wire Mesh Pvt. Ltd. Company for the last three financial years.

b. Auditor's Report of the Amartya Wire Mesh Pvt. Ltd. Company for the last three financial years.

c. Minutes of the General Body Meetings of the Amartya Wire Mesh Pvt. Ltd. Company for the last three financial years.

d. Record of dividends declared and distributed to shareholders of the Amartya Wire Mesh Pvt. Ltd. Company for the last three financial years.

e. Bank statements of Ravi Krishna Industries for the last three financial years.”

3. Thus, by the said order dated 14th February 2025, learned J.M.F.C. has directed the Respondent-Husband i.e. the present Petitioner to produce the bank statements of the Amartya Wire Mesh Pvt. Ltd. Company for the last three financial years, Auditor's Report of the Amartya Wire Mesh Pvt. Ltd. Company for the last three financial years, Minutes of the General Body Meetings of the Amartya Wire Mesh Pvt. Ltd. Company for the last three financial years, record of dividends declared and distributed to shareholders of the Amartya Wire Mesh Pvt. Ltd. Company for the last three

financial years and bank statements of Ravi Krishna Industries for the last three financial years.

4. In the said Application (Exhibit-89) in paragraph No.3, it has been stated by the Respondent-Wife that it has come to her knowledge that the Respondent is a Director and Shareholder in Amartya Wire Mesh Pvt. Ltd. Company, from which he derives dividends and other financial benefits in addition to his declared salary and further that, the Respondent has failed to disclose these additional sources of income in his assets and liabilities affidavit filed in the said proceedings.

5. The present Petitioner has filed detailed reply of 10 pages to the said Application bearing Exhibit-89. However, this particular fact which is set out in the paragraph 3 of the said Application bearing Exhibit-89 has not been denied. What is sought to be contended in paragraph No.4 of the reply is that as the said proceedings are filed under Section 125 of the Code of Criminal Procedure, 1973 (“CrPC”) and as the same are in the nature of criminal proceedings and therefore, the Accused/Respondent has

fundamental right to keep silence and therefore, he cannot be asked to produce any document.

6. However, it is required to be noted that the proceedings under Section 125 are not strictly in the nature of criminal proceedings where the Accused is tried for the offences for allegedly committing offence under the provisions of the Indian Penal Code, 1860. In fact, the Supreme Court in the case of *Rajnesh vs. Neha & Ors.*¹ has issued several directions *inter alia* with respect to the proceedings filed under Section 125 of the CrPC.. The relevant directions are as follows:

“72.1. (a) The Affidavit of Disclosure of Assets and Liabilities annexed at Enclosures I, II and III of this judgment, as may be applicable, shall be filed by the parties in all maintenance proceedings, including pending proceedings before the Family Court/District Court/Magistrate's Court concerned, as the case may be, throughout the country;

72.2. (b) The applicant making the claim for maintenance will be required to file a concise application accompanied with the Affidavit of Disclosure of Assets;

72.3. (c) The respondent must submit the reply along with the Affidavit of Disclosure within a

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maximum period of four weeks. The courts may not grant more than two opportunities for submission of the Affidavit of Disclosure of Assets and Liabilities to the respondent. If the respondent delays in filing the reply with the affidavit, and seeks more than two adjournments for this purpose, the court may consider exercising the power to strike off the defence of the respondent, if the conduct is found to be wilful and contumacious in delaying the proceedings [Kaushalya v. Mukesh Jain, (2020) 17 SCC 822 : 2019 SCC OnLine SC 1915] . On the failure to file the affidavit within the prescribed time, the Family Court may proceed to decide the application for maintenance on the basis of the affidavit filed by the applicant and the pleadings on record;

72.4. *(d) The above format may be modified by the court concerned, if the exigencies of a case require the same. It would be left to the judicial discretion of the court concerned to issue necessary directions in this regard.*

72.5. *(e) If apart from the information contained in the Affidavits of Disclosure, any further information is required, the court concerned may pass appropriate orders in respect thereof.*

72.6. *(f) If there is any dispute with respect to the declaration made in the Affidavit of Disclosure, the aggrieved party may seek permission of the court to serve interrogatories, and seek production of relevant documents from the opposite party under Order 11 CPC. On filing of the affidavit, the court may invoke the provisions of Order 10 CPC or Section 165 of the Evidence Act, 1872, if it considers it necessary to do so. The income of one party is often not within the knowledge of the other spouse. The court may invoke Section 106 of the*

Evidence Act, 1872 if necessary, since the income, assets and liabilities of the spouse are within the personal knowledge of the party concerned.

72.7. (g) If during the course of proceedings, there is a change in the financial status of any party, or there is a change of any relevant circumstances, or if some new information comes to light, the party may submit an amended/supplementary affidavit, which would be considered by the court at the time of final determination.

72.8. (h) The pleadings made in the applications for maintenance and replies filed should be responsible pleadings; if false statements and misrepresentations are made, the court may consider initiation of proceeding under Section 340 CrPC, and for contempt of court.

72.9. (i) In case the parties belong to the economically weaker sections (“EWS”), or are living below the poverty line (“BPL”), or are casual labourers, the requirement of filing the affidavit would be dispensed with.

72.10.(j) The Family Court/District Court/Magistrate's Court concerned must make an endeavour to decide the IA for interim maintenance by a reasoned order, within a period of four to six months at the latest, after the Affidavits of Disclosure have been filed before the court.

72.11.(k) A professional Marriage Counsellor must be made available in every Family Court.”

(Emphasis added)

7. Thus, if on the basis of the affidavit of disclosure filed by the present Petitioner pursuant to the directions issued by the Supreme Court in ***Rajnesh*** (supra), if it is found by the other party that in the said affidavit of disclosure, relevant facts are not disclosed then, the Respondent-Wife has right to file Application seeking production of documents.

8. In fact, learned Counsel appearing for the Petitioner has admitted that the Petitioner is Director of Amartya Wire Mesh Pvt. Ltd. Company.

9. Accordingly, the learned J.M.F.C. has rightly passed the order directing the present Petitioner to produce the documents. In fact, it is required to be noted that, if inspite of the directions, the Petitioner-Husband fails to produce the documents, then adverse inference is required to be drawn against the Petitioner.

10. Accordingly, no case is made out for interference in the impugned order under Article 227 of the Constitution of India.

11. The Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]

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