



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.51/2024

(Raju S/o Narayan Warhade Vs. Sau. Sunita w/o. Raju Warhade & ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P. K. Mohta, Advocate for petitioner.

CORAM: M. M. NERLIKAR, J.

DATED : 17/11/2025.

Heard.

2. The proceedings arising out of Section 127 of the Code of Criminal Procedure. Two submissions are made by the petitioner that due to certain reasons, he was not able to prosecute the case on merits as he was remained absent and secondly, the impugned order was passed without submitting the affidavit of assets and liabilities of the petitioner. The Family Court by its order dated 29.09.2023 was pleased to pass an order by enhancing the amount of Rs.11,000/- to Rs.22,000/-.

3. The learned counsel for petitioner by filing additional affidavit on behalf of the petitioner submits that he is regularly paying amount of maintenance to the tune of Rs. 11,000/- per month and there is no arrears due upon the petitioner. Though the respondents are duly served, the counsel appearing on behalf of them from many dates, is absent.

4. Considering the above facts and circumstances of the case, I am inclined to allow the petition only on the

ground that the petitioner should get an opportunity to be heard, so also the petitioner shall be permitted to file the affidavit of assets and liabilities. Both these two factors are important while deciding the proceedings of maintenance. The Supreme Court in the case of ***Rajnish Vs. Neha, 2021 (2) SCC 332*** categorically held that the party should file affidavit of assets and liabilities so that the Court should pass order and arrive at the proper conclusion while granting the amount of maintenance. Further, admittedly the order is passed without hearing him. Considering both these grounds, I am inclined to allow the petition, hence the following order:-

ORDER

- (I) The petition is allowed.
 - (II) The Trial Court shall permit the petitioner to file affidavit of assets and liabilities and further the petitioner be heard thereafter.
 - (III) The above order is subject to cost of Rs. 15,000/-. The cost be deposited in the Trial Court. After depositing the cost, wife-respondent is permitted to withdraw the same.
5. Petition stands disposed of in above terms.

(M. M. NERLIKAR, J.)