



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

CRIMINAL WRIT PETITION NO. 69/2025

...

Shrawan S/o Rajeramji Banasure,
Aged 35 years, Occ: Service,
R/o Balaji Nagar, Ballarpur,
Tah. Ballarpur, Dist. Chandrapur.

... **PETITIONER**

- - V E R S U S - -

Ankita W/o Shrawan Banasure,
Age 29 years, Occ. Private Job,
R/o C/o Ramesh Ramrao Nasare,
Tarasawanga, Tah. Ashti, Dist. Wardha.

... **RESPONDENT**

Ms. Sonali Saware Gadhave, Advocate for the Petitioner.

Mr. M.V. Rai, Advocate for the Respondent.

CORAM : M.M. NERLIKAR, J.

DATE : SEPTEMBER 24, 2025.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. This petition is filed under Article 226 of the Constitution of India. The petitioner is challenging the judgments passed in PWDVA Appeal No.14/2024 and PWDVA Appeal No.11/2024 on 19/11/2024 passed by the Additional Sessions Judge, Wardha. Further challenge is raised to the order dated 26/03/2024 passed by the Judicial Magistrate First Class, Ashti, in PWDVA No.29/2020.

3. Brief facts of the case are that:

The petitioner and the respondent are legally wedded husband and wife. Their marriage was solemnized on 28/06/2020. It is alleged that, after marriage, the present respondent-wife resided with the petitioner only for 63 days and left the matrimonial house. The petitioner filed an

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application for restitution of conjugal rights against the respondent-wife. Thereafter, the respondent-wife filed complaint under Section 498-A, so also, under the Protection of Women from Domestic Violence Act, 2005, before the Judicial Magistrate First Class, Ashti. The said case was registered as PWDVA No.29/2020. In the said proceedings, the respondent-wife filed an application for grant of interim maintenance against the petitioner.

4. After hearing both the sides, the learned J.M.F.C. by order dated 26/03/2024 allowed the application and granted maintenance amounting to Rs.15,000/- to the respondent-wife. The present petitioner-husband and the respondent-wife challenged the said order by filing an appeal before the Sessions Court at Wardha which is numbered as PWDVA No.11/2024 and PWDVA No.14/2024, respectively. By an order dated 19/11/2024, the learned Additional Sessions Judge, Wardha, was pleased to allow the appeal filed by the

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respondent-wife by modifying the maintenance amount and enhanced the same to Rs.25,000/-. However, the appeal filed by the present petitioner was dismissed by separate judgments. Therefore, the present petition is filed challenging both the orders.

5. I have heard the learned counsel for the petitioner as well as learned counsel for the respondent. The learned counsel for the petitioner submits that this is the second round of litigation before this Hon'ble Court. Initially, the petitioner-husband, so also, respondent-wife, approached this Court by filing Criminal Writ Petition Nos. 204/2023 and 468/2023, wherein, both have challenged the order dated 10/02/2023 passed by the Learned Additional Sessions Judge, Wardha, in PWDVA Appeal No. 02/2021. The learned Sessions Court in Appeal filed by the wife under Section 29 of the Protection of Women from Domestic Violence Act, 2005, has enhanced the amount of interim maintenance from Rs.6,000/- to

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Rs.15,000/-. It is further submitted by the learned counsel for the petitioner that the petition filed by the petitioner-husband was allowed and the petition filed by the respondent-wife was dismissed and the matter was remanded back to the learned Judicial Magistrate First Class, Ashti, to consider it afresh, in the light of the ratio laid down in the case of ***Rajnish VS Neha & Ano. (2021) 2 SCC 3241***. Accordingly, the Judicial Magistrate First Class, Ashti, passed an order below Exh.13 on 26/03/2024 thereby granting interim maintenance of Rs.15,000/- to the respondent-wife.

6. Again, both the parties have challenged the order dated 26/03/2024 passed by the Learned Magistrate, wherein, the interim maintenance of Rs.15,000/- was granted before the Additional Sessions Judge, Wardha, by filing Appeal Nos.14/2024 and 11/2024 by husband and wife, respectively. By an order dated 19/11/2024, the appeal of the petitioner-husband was dismissed, however, the appeal of the respondent-

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wife was allowed by enhancing the amount from Rs.15,000/- to Rs.25,000/-, and therefore, the present petition is filed.

7. The learned counsel for the petitioner submits that amount granted by the Appellate Court is exorbitant and against the settled principles of law as the respondent-wife is educated and she can maintain herself and she has only resided for 63 days with the petitioner-husband. Further, Rs.25,000/- is exorbitant considering the payment of the petitioner, as the petitioner is getting only Rs.71,000/-. The petitioner is further required to pay EMI for the loan obtained, and there are statutory deductions. Even the mother of the petitioner is dependent on him, and therefore, he is required to pay Rs.10,000/- independently as per the order of the S.D.O. The Court ought to have balanced the rights of the parties while granting such a huge amount as interim maintenance. She further submits that the respondent-wife is educated women and was doing job before marriage and getting handsome

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amount. The Court's attention was invited to the cross-examination where she has admitted that she has M.Com and B.B.A. degrees, so also, has completed MS-CIT course. Therefore, if an educated person is sitting ideally in the house, under such circumstances, the husband is not entitled to pay maintenance to the respondent-wife. So as to substantiate the above contentions, she has relied on the following authorities :-

(1) *Rajnesh VS Neha & Another, (2021) 2 SCC 324*, (2) *Megha Khetrpal VS Rajat Kapoor, 2025 SCC Online Del 1688* (3) *Bhushan Kumar Meen VS. Mansi Meen Allas Harpreet Kaur, AIRONLINE 2009 SC 407* (4) *Madan Kumar Satpathy VS Priyadarshini Pati (Orissa High Court in APFAM No.417/2023)*.

8. On the other hand, learned counsel for the respondent-wife submits that the respondent though is educated, but is not getting a job. He has placed on record along with Pursis, copy of interview call letters dated 12/07/2024 and 02/10/2024. He further submits that the

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petitioner is getting a handsome salary which can be gathered from the salary slip of September, 2022, that the petitioner being a professor is getting salary of Rs.1,43,272/-. After considering the affidavit of assets and liabilities which was filed on record, initial order of Rs.15,000/- was passed by the learned J.M.F.C., however, as the amount was inadequate, the respondent-wife has filed the appeal and in appeal Rs.25,000/- was granted. Considering, the entire material on record, the Appellate Court after hearing both the sides has granted Rs.25,000/- as enhanced maintenance amount. He further submits that in order to deprive the claim of the respondent, false case was filed before the Learned S.D.O. by mother against her son and accordingly obtained the order of maintenance of Rs.10,000/-. Apart from the salary of Rs.1,43,272, the petitioner owns 10 acres of agricultural land, and is getting huge income from it which is the second source of income. Therefore, the Appellate Court has rightly passed the order of enhanced maintenance by granting Rs.25,000/-.

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9. After hearing both the parties at length and after going through the record placed before me, it appears that initially the order below Exh.13 was passed by the learned J.M.F.C, Ashti, District Wardha, thereby granting interim maintenance of Rs.15,000/- per month to the respondent from the date of filing of the petition, i.e., from 07/12/2020, till final decision. While considering the application for interim maintenance, which is filed by the respondent-wife, it appears from the order that both the parties filed their affidavit of assets and liabilities at Exh.102 and 110, respectively. Thereafter, in detail the Court has marshalled all the relevant facts. As against the claim of the respondent-wife of Rs. 50,000/-, the Court has granted Rs.15,000/-. Thereafter, both the parties filed an appeal. The appeal of the husband was dismissed, however, the appeal filed by the respondent-wife was allowed by granting enhancement from Rs.15,000/- to Rs.25,000/-. Under such circumstances, the question falls for consideration before me is that “whether the Appellate Court while enhancing the

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amount of maintenance has considered the relevant facts and circumstances of the cases?”

10. As both the parties relied on the Judgment delivered by Supreme Court, so also, by other High Courts. It would be useful to refer to the Judgments which are cited by the petitioner.

Paragraph Nos. 44, 47 and 50 of *Megha Khetrapal (supra)* reads thus:-

“44. Furthermore, it has been rightly observed by the learned Principal Judge that while the petitioner claims that she cannot sit idle and is trying to search for a job, she has not placed any evidence on record regarding her efforts to secure employment or resume her business activities either before the Court below or before this Court. Accordingly, this Court is of the considered view that the mere assertion of job-seeking, without corroborative evidence, is insufficient to establish genuine efforts at self-sufficiency.

47. Taking into consideration the observations made hereinabove, this Court is of the view that qualified wives, having the earning capacity but desirous of remaining idle, should now set up a claim for interim

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maintenance. Section 125 of the CrPC carries the legislative intent to maintain equality among the spouses, provide protection to the wives, children and parents, and not promote idleness. In light of the same, this Court is of the considered view that a well-educated wife, with experience in a suitable gainful job, ought not to remain idle solely to gain maintenance from her husband. Therefore, interim maintenance is being discouraged in the present case as this Court can see potential in the petitioner to earn and make good of her education.

50. *This Court is unable to comprehend the fact as to why, despite being able-bodied and well qualified, the petitioner has remained to choose idle since her return to India. Thus, it is held that the learned Principal Judge rightly passed the impugned order holding that the petitioner herein is not entitled to grant of interim maintenance considering the peculiar facts.”*

Paragraph No. 6 of ***Bhushan Kumar Meen (supra)***

reads thus :

“6. *Having heard learned counsel for the respective parties, and considering the reality of the situation to the effect that the appellant is receiving a sum of about Rs.9000/- in hand after deduction of various amounts, including the instalments towards repayment of the home loan, we are of the view that the amount as awarded by way of interim maintenance is on*

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the high side. At the same time, we cannot also shut our eyes to the fact that at present the respondent-wife is not employed or at least there is nothing on record to indicate she is employed in any gainful work. However, having regard to the qualifications that she possesses, there is no reason why she ought not to be in a position to also maintain herself in the future. Accordingly, we modify the order passed by the learned Magistrate, granting Rs.10,000/- per month to the respondent-wife by way of interim maintenance and direct that the appellant-husband shall pay to the respondent-wife a sum of Rs.5000/- per month, instead of Rs.10,000/-, and all other terms and conditions, as indicated by the learned Magistrate, will continue to operate.”

Paragraph No. 4 of the *Madan Kumar Satpathy (supra)* read thus:

“4. Law never appreciates those wives, who remain idle only to saddle the liability of paying maintenance on the husband by not working or not trying to work despite having proper and high qualification. It is found in this case that the OP-wife had earlier worked in some media houses and she has got definite prospect to work and earn her livelihood. The intention and objective of legislature in enacting Section 125 of CrPC is to provide succor to those wives, who are unable to maintain themselves and have no sufficient income for their sustenance. The social

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objective behind the provision for grant of maintenance, if considered on the admitted facts as discussed in this case, it would go to disclose the wife's need and requirement to be balanced not only with the income and liability of the husband, but also has to be considered on the backdrop of the education and prospect of the wife to earn."

11. It appears from the Judgment dated 19/11/2024 passed by the learned Additional Sessions Judge, Wardha, in Paragraph No.11, has considered the assets and liabilities, wherein, salary slip of September, 2023, shows that the gross salary is Rs.1,43,272/- and net salary is Rs.71,477/-. It is further observed that as per the order of the S.D.O, the present petitioner is liable to pay maintenance of Rs.10,000/- to his mother. The court has also taken into consideration the case of *Rajnish (supra)*, so also, relied on other several authorities, which would suggest that only statutory deductions ignoring all other deductions from the salary of the husband is required to be taken into consideration for deciding the application for interim maintenance. The Authorities cited further suggests

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that the cost of living will also have to be taken into consideration. In the backdrop of this, the Appellate Court considered the inflation rate, so also, prices of essential commodities, and therefore, came to a conclusion that the petitioner is getting a handsome salary. The petitioner is having 10 acres of agricultural land, and therefore, wife is entitled to live life with dignity and decency, and therefore, considering all the above circumstances granted Rs.25,000/-. In my humble opinion, the Appellate Court has not committed any error for the reason that admittedly the petitioner is a professor and getting gross salary of Rs.1,43,272/- and after deductions getting net salary of Rs.71,477/-. This position is of the year 2022, naturally there might be a hike in the salary. Apart from this, even ignoring the hike, if this salary is considered along with the income from the Agricultural land, the petitioner is having 10 acres of agricultural land. It is further to be noted that the balance is required to be maintained so that even the husband is not burdened and similarly the wife should also be

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able to live her life with same standard as compared to the petitioner. Needless to mention that every women is required and entitled to live her life with dignity and decency, not only that, as was held in the case of *Rajnish (supra)* that while granting interim maintenance the Court should consider the entire circumstances like the market price of the essential commodities as well as inflation rates, food and clothing of the wife and other similar things from which it can be said that wife is living in a dignified manner. Further, as was argued by the learned counsel for the petitioner, the respondent-wife is an educated person. She has completed her M.Com as well as BBA and MS-CIT course, and therefore, she will get employment easily. No doubt, the respondent-wife is highly educated lady and it appears that before marriage she was doing job and getting a salary of Rs.15,000/-, however, for the purpose of marriage she has sacrificed her job and started cohabiting with the petitioner-husband. Now it seems from the Pursis which is placed on record by the respondent-wife that she is filling the

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form for getting a job. Interview call letters dated 12/07/2024 and 02/12/2024 depicts that she is trying hard to get a job, however, she is not able to succeed, and therefore, the judgments relied on by the petitioner would not be applicable to the present case, as the facts and circumstances are altogether different, it would be useful to refer to the Judgment in the case of ***Dr. Rajiv Verghese VS Rose Chakkrammankkil Francis (2025) ALL SCR 107***, Paragraph No. 11 reads thus:-

“11. We find that the High Court has erred in reducing the quantum of maintenance to Rs.80,000/- (Rupees Eighty Thousand only) per month. The High Court has considered only two sources of income for the respondent. Firstly, the sum of Rs.1,25,000/- (Rupees One Lakh and Twenty-Five Thousand only) that he earns from working as a Cardiologist at the Hospital. Secondly, the rent amount he and his mother receive from a property, of which the High Court has stated that he receives half the amount only. However, the High Court has not dealt with the findings of the Family Court wherein the respondent is said to own a number of worthful properties and the fact that he is the only legal heir of his father. The Family Court found that the respondent is accruing all the incomes from the properties owned by his mother. The High Court has not

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dealt with the aspect of the number of properties owned by the respondent and looked at the rental income from one property. The Family Court also noted that the respondent was found to be in possession of a school and could not substantiate his claim that the school was running in losses. Therefore, the High Court has overlooked certain aspects relating to the income of the respondent which were looked at by the Family Court. Further, it is also on record that the appellant is not working as she sacrificed her employment after the marriage. The appellant was accustomed to a certain standard of living in her matrimonial home and therefore, during the pendency of the divorce petition, is also entitled to enjoy the same amenities of life as she would have been entitled to in her matrimonial home. ”

12. Therefore, the Supreme Court in clear terms has said “*that the respondent-wife was accustomed to a certain standard of living in her matrimonial home, and therefore, during the pendency of the divorce petition, is also entitled to enjoy the same amenities of life as she would have been entitled to in her matrimonial home,*” and therefore, considering all the aspects discussed *supra*, the interim maintenance granted by the Appellate Court is justified.

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13. The provisions of domestic violence are beneficial legislation and it is under this context, the facts and circumstances will have to be considered in order to prevent vagrancy of the wife. For the same, interim maintenance is necessary to be granted, and therefore, considering the above facts and circumstance, in my opinion, the order granting maintenance of Rs.25,000/- is justified and no interference is required. Hence, the following order:-

ORDER

- (i) The Criminal Writ Petition is **dismissed**.
- (ii) Rule stands discharged.

[**M. M. NERLIKAR, J**]