



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

CRIMINAL WRIT PETITION NO. 179 OF 2025

Trupti Vikas Narayan Vs. Vikas s/o Kalyanam Narayanan

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. V.V. Bhangde, Advocate for petitioner.
Mr. R.S. Akbani, Advocate for respondent.

CORAM : M.M. NERLIKAR, J.

DATE : 24.11.2025

Heard the learned counsel appearing for the
petitioner as well as the respondent.

2. The order under challenge is dated
12.08.2024 passed by the Family Court, Court No.3,
Nagpur, wherein the application filed by petitioner for
interim maintenance under Section 24 of the Hindu
Marriage Act, was rejected only on the ground that the
petitioner is granted maintenance under the provisions of
the Domestic Violence Act.

3. The learned counsel appearing for petitioner
submits that the Family Court has not applied its mind
and ought to have independently dealt with the issue of
interim maintenance and not on the basis of the grant of
maintenance under the Domestic Violence proceedings.
He further submits that there are no findings on merits so

far as the present application which is filed at Exhibit 6 for grant of interim maintenance is concerned. The proceedings under the Domestic Violence Act and the present proceedings are independent of each other and domestic violence proceedings are in addition to the other maintenance proceedings and accordingly, submits that the Family Court has completely ignored this fact and therefore, prayed for quashing of the order dated 12.08.2024 passed below at Exhibit 6.

4. On the other hand, the learned counsel appearing for respondent submits that the proceedings under the Hindu Marriage Petition is filed by the wife for divorce and under Section 24, the application was filed for the interim maintenance. The main petition of divorce is kept pending for three years and no evidence has been led by the petitioner. He further submits that the Trial Court after considering the affidavit of assets and liabilities has come to the conclusion that the interim maintenance granted in the Domestic Violence proceedings is sufficient. Even the Trial Court has considered that the petitioner is getting a handsome salary and therefore, has rightly rejected the application. At the most, he requested to expedite the hearing of the main petition.

5. Upon hearing the learned counsel for petitioner as well as respondent, it appears that,

admittedly, the petitioner filed Misc. Criminal Case No.3722/2019 under the provisions of Domestic Violence Act, wherein the petitioner has been granted interim maintenance of Rs.5,000/- for herself and Rs.3,000/- for minor girl child. It appears that the Hindu Marriage Petition was filed for divorce, and under that, an application under Section 24, was filed for grant of interim maintenance.

6. It further appears that the Court has passed the impugned order only on the basis that the Court while granting interim maintenance under the Domestic Violence proceeding had taken into consideration, the affidavit of assets and liabilities filed by both the parties. Not only that, it further appears from the impugned order that the Court while granting interim maintenance has also considered the income of the husband and thereafter, partly allowed the application of the wife.

7. It is a settled position of law that every proceedings should be dealt independently. Not only that, the findings should be arrived at as per law. So far as the impugned order is concerned, there is no independent adjudication on merit as to demonstrate whether the wife is entitled for the maintenance and whether the husband is liable to pay the interim maintenance. Secondly, there is also no discussion about the income of both the parties in

order to arrive at a certain conclusion. Unless and until the application is dealt with independently on merits, same cannot be sustained in law. Merely observing that the wife has already been granted interim maintenance under the Domestic Violence proceedings is not sufficient. It is the duty of the Court below to consider evidence on record and after appreciating the entire evidence in accordance with law, come to the definite conclusion. It appears from the impugned order such exercise was not carried out.

8. In this view of the matter, I deem it appropriate to remand the matter back to the Family Court in order to consider the application filed by the wife independently on merits. However, the Court may take into consideration the judgment of the Supreme Court in the case of *Rajnish Vs. Neha*, reported in *(2021) 2 SCC 324*.

9. In this view of the matter, the petition is partly allowed. The matter is remanded back to the Family Court for fresh decision on the application at Exhibit 6.

(M.M. Nerlikar, J.)