



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

CRIMINAL WRIT PETITION NO. 271 OF 2025

Shri Pragydeep S/o Machhindra Borkar and Another

-- VERSUS --

Sau. Rashmi W/o Pragydeep Borkar and another

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

Court's or Judge's orders.

Ms. Bhagyshree M. Kakde, Advocate for the Petitioner.
Mr. Kanak Mandpe, Advocate for the Respondent No.1.
Mr. A.M. Joshi, A.P.P. for the Respondent No.2/State.

CORAM : M.M. NERLIKAR, J.

DATE : SEPTEMBER 24, 2025.

The present writ petition, filed under Articles 226 and 227 of the Constitution of India, challenges the judgment and order dated 08/04/2024 passed by the learned Additional Sessions Judge-10, Nagpur, in Criminal Appeal No. 82/2023, as well as the judgment and order dated 19/01/2023 passed by the learned 17th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate (Spl. Court for D.V. Act), Nagpur, in Criminal Miscellaneous Application No. 2203/2018, wherein the learned Magistrate, was pleased to award maintenance of Rs.11,000/-. The said order was challenged before the learned Additional Sessions Judge, Nagpur, wherein the appeal filed by the present petitioner was dismissed.

2. The learned counsel for the petitioner submits that the respondent is highly qualified and she is doing the business of handicraft and earning a handsome amount. She further submits that though the evidence is led by the petitioner, same was not considered by the Courts below in its true perspective. She further submits that there are other dependents on the petitioner, even that fact was not taken into consideration by both the Courts below. The amount of maintenance of Rs.11,000/- is exorbitant. She further submits that so far as the proceedings under Section 125 of Criminal Procedure Code, 1973, is concerned, even the learned Judge of the Family Court has granted Rs.20,000/- maintenance. Under such circumstances, she submits that both the orders are against evidence led by the petitioner.

3. On the other hand, learned counsel for the respondent submits that a meager amount has been granted as maintenance. He further submits that so far as the amount of Rs.11,000/- granted in Domestic Violence proceedings is concerned, the same has been considered in the proceedings initiated by the respondent under Section 125 of the Code of Criminal Procedure, and total amount of Rs. Rs.20,000/- has been awarded. He invited my attention to Clause No.3 of the Judgment and Order

dated 03/09/2025 passed in Petition No.E-186/2022 instituted under Section 125 of the Cr.P.C. He further submits that the respondent-wife though educated, but at present, she is unemployed. He further submits that there is no source of income to her. She is wholly dependent on the present petitioner. He submits that both the Courts below have granted very meager totaling amount Rs.20,000/- as maintenance which is not sufficient to maintain the present respondent.

4. Upon hearing both the parties at length, it appears from the record that the proceedings initiated by the wife under the Domestic Violence Act, wherein the maintenance amount of Rs.11,000/- has been granted and while granting the maintenance amount the learned 17th Additional Chief Judicial Magistrate, Nagpur was pleased to consider the source of income of the present petitioner which is to the tune of Rs.71,038/- after all the deductions. Further, the petitioner has also filed the affidavit of assets and liabilities wherein the monthly income is shown as Rs.91,710/-. He has also shown monthly expenditure of Rs.59,300/-. Even the wife has filed the affidavit of assets and liabilities which shows that there is no source of income to the respondent-wife. The learned Trial Court while dealing with the evidence and the affidavit of assets and liabilities has

also taken into consideration that the respondent-wife is having certain source of income, however, it was taken into consideration while deciding the quantum of maintenance.

5. Considering the facts and circumstances of the case, the learned Trial Court has come to the conclusion that the respondent-wife is entitled to maintenance of Rs.11,000/-. Aggrieved thereby the petitioner approached the Sessions Court by filing Criminal Appeal No.82/2023. The Appellate Court has scanned the entire evidence on record in detail and thereafter dismissed the criminal appeal. Further the maintenance amount granted in 125 proceedings is adjusted by making it in total of Rs.20,000/- as could be seen from Clause 3 of operative part of order dated 03/09/2025, and therefore, the law laid down by the Supreme Court in the case of ***Rajnesh VS. Neha & Anr., (2021) 2 SCC 324*** is followed. Clause 3 of order dated 03/09/2025 is reproduced below:-

“3] It is made clear that amount awarded in this proceeding shall be inclusive of and not in addition to the maintenance amount awarded in other proceedings in favour of petitioners.”

6. After perusal of both these judgments, in my opinion, there is no error committed by both the Courts. The fact remains that the respondent-wife is

required to live her life with dignity and decency and up to the living standard of the present petitioner, therefore, in my humble opinion, both the Courts are right in granting maintenance of Rs.11,000/- to the respondent-wife. In this view of the matter, there is no substance in the present petition and is accordingly **dismissed**.

[M.M. NERLIKAR, J]

PIYUSH MAHAJAN