



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

CRIMINAL WRIT PETITION NO.445 OF 2024

Amit S/o Gendlal Ganvir,
Aged about 45 years,
Occupation: Service,
R/o.Plot No.1, Kamla Nagar,
Wadi Naka No.10, Amravati Road,
Nagpur, Distt. Nagpur

...PETITIONER

VERSUS

1. Sau.Vidhya W/o Amit Ganvir,
Aged about 35 years,
Occupation : Household,
2. Aniruddha S/o Amit Ganvir,
Aged about 5 years, Occ. Nil,
minor through natural guardian
mother Sau.Vidhya Amit Ganvir,
Both R/o. New Indora, Jaripatka Road,
Behind Jetvan Buddhas Vihar Line No.4,
Pole No.A/C/19, Nagpur,
Tq. and Distt. Nagpur.

...RESPONDENTS

Mr. A.R. Ingole, Advocate for the petitioner.
Mr. I. Haque, Advocate for the respondents.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : JULY 03, 2025.

ORAL JUDGMENT :

RULE. Rule is made returnable forthwith.

2. Heard finally with the consent of the learned Counsel for both the parties.

3. The petitioner and respondent No.1 are husband and wife. Their marriage was solemnized on 03/07/2017. Out of the said wedlock respondent No.2 - son was born who is aged about 6 years. After marriage as per the allegation of respondent No.1, she was ill-treated by the present petitioner, and therefore, she constrained to leave the matrimonial house and residing along with her parents. She preferred the petition under Section 125 of the Code of Criminal Procedure for grant of maintenance. The Family Court No.2 granted interim maintenance @ Rs.4000/- per month to respondent No.1 and Rs.3000/- per month to respondent No.2 from the date of application i.e. 30/03/2019 till the disposal of the petition.

4. This petition is filed by the petitioner as no opportunity was granted to him to file reply and contest the petition and the evidence of the respondent is recorded. It is submitted by the learned Counsel for the petitioner that though the petitioner appeared but he has not filed the reply till 11/03/2020 though he appeared on 17/12/2019 itself. It is submitted by the learned Counsel for the petitioner that the fair opportunity is to be granted to the present petitioner to contest the

application filed by the respondents, and therefore, he be permitted to file his reply and contest the application.

5. Learned Counsel for the respondents strongly opposed for the same and submitted that despite sufficient opportunity granted, he has not filed his reply. Moreover, he has not cleared the arrears of the interim maintenance worth of Rs.1,27,000/-, and therefore, there is no reasonable ground for the petitioner to give him an opportunity to contest the petition before the Family Court as the petitioner was not diligent at all as he has not filed the reply before the Family Court.

6. After hearing both the sides and on perusal of the entire record it reveals that yet the family court proceeding is not concluded and it is on the stage of adducing the evidence. Admittedly, no diligence is shown by the present petitioner by filing reply though he appeared through his Counsel. The roznama shows that sufficient opportunity is already granted to the present petitioner but he failed to file reply. However, considering that still the Family Court proceeding is not closed and to give him a fair opportunity to contest the petition on its own merits, the opportunity requires to be granted subject to the conditions. In view of that, I proceed to pass the following order :

- (i) The writ petition is allowed.

(ii) The Family Court No.2, Nagpur shall consider the application of the present petitioner, if filed by him, seeking permission to file reply on record and shall give an opportunity to file reply and contest the petition.

(iii) The petitioner shall deposit the total arrears of Rs.1,27,000/- within four weeks. In addition to that, the petitioner shall also pay cost of Rs.5000/- to the respondents.

7. The writ petition stands disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*