



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

CRIMINAL WRIT PETITION NO. 545 OF 2025.

Sanjeet Madanmohan Roy.

-VERSUS-

Bortati Sanjeet Roy and another.

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

Court's or Judge's Orders

Shri I.J. Charlewar, Advocate for the Petitioner.

CORAM : M.M. NERLIKAR, J.

DATE : SEPTEMBER 18, 2025.

Heard learned Counsel for the petitioner.

2. By this petition filed under Articles 226 and 227 of the Constitution of India, the petitioner is seeking quashment of the order dated 13.05.2025 passed by the Family Court No.4, Nagpur below Exh.6 in Petition No.E-334/2023, wherein the learned Family Court has partly allowed the application filed by the respondents, and directed the petitioner to pay monthly interim maintenance at Rs.5000/- for wife and Rs.8000/- (Rs.4000 for maintenance and Rs.4000 for education) for minor son i.e. total Rs.13,000/- per month. This interim maintenance is ordered to be paid from the date of the

application till the disposal of the petition.

3. The learned Counsel for the petitioner submits that the maintenance amount granted by the Family Court is exorbitant. He submits that already an amount of Rs.3000/- has been granted by the competent Court in proceedings under Domestic Violence Act initiated by the wife. He further submits that the Family Court on its own has granted interim maintenance of Rs.5000/- to wife and Rs.8000/- to minor son, wherein in the application filed by them, they have only claimed total Rs.10,000/- i.e. Rs.6000/- for wife and Rs.4000/- for minor son, and therefore, the family Court ought not to have granted total amount of Rs.13,000/- to the respondents.

4. I have gone through the application (Exh.6) filed by the respondents and the orders passed below it on 13.05.2025. It is not in dispute that in Domestic Violence proceedings the competent Court has awarded an amount of Rs.3000/- to the wife towards monthly maintenance. Further an amount of Rs.5000/- to wife and Rs.8000/- to son totaling to Rs.13,000/- has been granted by the Family Court. It is also not in dispute that the petitioner is working in Railway Department and from

his salary slip his gross pay comes to Rs.50,243/- per month. After deductions, he is getting Rs.31,293/- per month. The salary slip is for the month of November, 2022.

5. It is the duty of the petitioner to maintain his wife and minor son. Considering the basic need of human beings, the amount of maintenance is required to be computed on dignified life, good education, healthy food, cost of clothing and day to day requirement of life.

6. So far as the contention of the petitioner that in the application filed by the respondent wife, maintenance of Rs.10,000/- was claimed i.e., Rs.6000/- for herself and Rs.4000/- for minor son, however, the Family Court has granted more than what was claimed, which ought not to have been granted.

7. No doubt, the wife in her application has claimed Rs.10,000/- for herself and minor son, however, the Family Court has granted Rs.13,000/-. It is necessary to mention that there is no bar in Section 125 of the Code of Criminal Procedure from awarding more amount than what is claimed in the petition or application. Rather a duty is cast on the Court to

award maintenance which he thinks fit. Needless to mention that the amount of maintenance should be such that the wife should be able to maintain herself decently and with dignity. The Magistrate cannot refuse to grant such amount merely because the claimant has not claimed such amount in the application. Once the Legislature casts a duty on the Court to award amount towards maintenance, in the facts and circumstances of the case, the same cannot be denied on these technicalities i.e. the claimant had not claimed said amount in their application. Considering the financial capacity of the husband, as well as need of the dependents, computation of maintenance amount is necessary. It is not in dispute that the husband is gainfully employed and is a servant of Central Government (Railway Department), and getting handsome salary. Considering the above factors, I do not find that the Family Court has committed any error in awarding the maintenance of Rs.5000/- to wife and Rs.8000/- to the minor son. In this view of the matter, I do not find any merits in the challenge raised, Writ Petition is therefore, dismissed.

JUDGE