



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

CRIMINAL WRIT PETITION NO. 784 OF 2025.

Sachin Harichandra Athawale.

Versus

Harsha Sachin Athawale 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 U.J. Deshpande, Advocate for the Petitioner.

Shri M. Ateeque, Advocate for Respondents.

CORAM : M.M. NERLIKAR, J.

DATE : DECEMBER 09, 2025.

Heard the learned Counsel appearing for the parties.

2. The only question which arise in this petition is for set-off of interim maintenance amount granted in Domestic Violence Proceeding amounting to Rs.6500/-. It is submitted that this amount was not considered while considering the interim maintenance granted by the Court in an application under Section 125 of the Code of Criminal Procedure.

3. Both the learned Counsel concede to the fact

that in view of the law laid down by the Supreme Court in case of **Rajnish .vrs. Neha and another – (2021) 2 SCC 324**, the amount which is granted as interim maintenance in Domestic Violence proceeding needs to be considered.

4. Considering the judgment delivered by the Supreme Court in the case of Rajnish [supra], the Supreme Court in paragraph nos. 54 and 61 therein has considered the adjustment or set off to be done when the party has claimed maintenance amount under different statutes.

5. Though the trial Court appears to have considered this fact, however, came to the conclusion that the amount granted in the proceedings under Section 125 of the Code of Criminal Procedure, are in addition to the amount granted in Domestic Violence proceeding.

6. As both the learned Counsel have conceded to the fact that in view of the law laid down by the Supreme Court in the case of Rajnish [supra], the amount needs to be adjusted, therefore, without going into the merits of the matter, following order is passed.

ORDER

- (i) The amount of Rs.20,000/- shall be paid by the husband to the wife, as was directed by the Family Court, Nagpur in proceeding No. E-256/2019, however, so far as the amount of interim maintenance granted under Domestic Violence proceeding would stand merged in the said amount of Rs.20,000/-, meaning thereby the husband would be required to pay total amount of Rs.20,000/- to the wife in both the proceedings, from the date of application, as was directed by the Family Court, Nagpur vide order dated 23.07.2025. The order is modified to the above extent.
- (ii) The above observations and order are prima facie in nature, and restricted to the present proceedings so also granting interim maintenance only, since this Court has not touched the merits of the matter. It is made clear that the Family Court should not get itself influenced by the observations of this Court, and shall take independent view/decision while deciding the proceedings.
- (iii) Both the Counsel requested that the proceedings under Section 125 of the Code of Criminal Procedure, before the Family Court be expedited. The Family Court to take endeavor to decide the proceedings expeditiously, subject to the cooperation from the parties.\
- (iv) Criminal Writ Petition is accordingly disposed of.

Order

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JUDGE

Rgd