



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

CRIMINAL WRIT PETITION NO. 933 OF 2024

Anirudha Kisan Gajbhiye,
Aged about 42 years, Occ.: Service,
R/o. Madhukar Shirsagar at Khamari,
Post : Neri, Tah. Mohadi, Bhandara.

.... **PETITIONER.**

// **VERSUS** //

1. Mrs. Trupti Anirudha Gajbhiye,
Aged about 34 years, Occ. : Household,
2. Master Daksh S/o. Anirudha Gajbhiye,
Being minor through natural guardian
mother C/o. Kisan Gajbhiye at Pipri
(Punarvasan), Post : Shahapur, Bhandara.

.... **RESPONDENTS.**

Shri S.R.Charpe, Advocate for Petitioner.
Shri M.P.Suryawanshi, Advocate for Respondent Nos.1 & 2.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 17, 2025

ORAL JUDGMENT :

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.
3. Grant of interim maintenance to the tune of Rs.10,000/- to the respondent-wife and Rs.6,000/- to the respondent-son by the learned

Family Court, Bhandara vide order dated 06/06/2024 in Petition No. E-37/2023 is under challenge in this writ petition.

4. The challenge is raised on the ground that the learned Family Court failed to consider the deductions towards LIC and EMI of loan amount. It is further argued that the parents are dependent on the petitioner. It is submitted that, the petitioner has to stay at Bhandara for the purpose of his employment and he needs to pay rent and also to incur expenditure on his day to day requirements. Whereas, the respondent-wife is residing in the house of the petitioner and therefore, she does not require to pay rent. Shri Charpe, learned counsel for the petitioner therefore, submits that an exorbitant amount of maintenance has been granted.

5. On the other hand, the respondent placed reliance upon the judgment of the Hon'ble Supreme Court of India in the case of *Kulbhushan Kumar ..vs.. Raj Kumari & Anr.*, reported in **1971 AIR SC 434** to point out that the amount paid by the husband towards LIC premium or towards EMI of the loan amount cannot be taken into consideration while determining the amount of maintenance. He, therefore, submits that the Court has rightly not taken those deductions into consideration.

6. In light of the above arguments, I have perused the record. The petitioner is working in secondary school viz. Navneet Secondary School, Khumari and from his Salary Slip it is evident that his gross salary is Rs.60,844/-. If the amount of LIC and the loan amount which he is repaying are not excluded from the gross income, the income of the petitioner is more than Rs.50,000/-.

7. The learned counsel for the respondent pointed out that father of the petitioner is the President of an Education Society, which is running a school and further he is having agricultural land and therefore, they are not dependent on the petitioner.

8. On a specific query put to the learned counsel for the petitioner, in this regard on instructions from the brother of the petitioner, who is present in the Court, he fairly states that father of the petitioner is the President of Education Society and having two acres of agricultural land. Thus, it cannot be said that the parents of the petitioner are dependent upon the petitioner.

9. In the above referred circumstances, if the petitioner's income is considered as more than Rs.50,000/-, Rs.10,000/- interim maintenance granted to the respondent-wife and Rs.6,000/- to the son, is just and proper.

10. In that view of the matter, I do not want to interfere with the impugned order. Accordingly, the writ petition is **dismissed**.

11. At this stage, the learned counsel for the petitioner submits that as far as arrears of maintenance is concerned, the petitioner would deposit it in installments. However, the learned trial Court is insisting to pay it in lump sum.

12. Considering the intention of the petitioner to pay arrears, I am of the opinion that no prejudice will be caused to the respondent if he pays in installments.

13. The petitioner undertakes to pay arrears of maintenance amount which, according to him, is around Rs.1,50,000/- and disputed by the learned counsel for the respondent, within six months in installments. The statement is accepted.

Rule stands discharged.

(ANIL S. KILOR, J)