IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2986 OF 2026

Farid Hanif Sunasra …Petitioner

Versus

Saima Farid Sunasra …Respondent

Mr. Pravin Nemade, for the Petitioner.
Mr. P. P. Jadhav, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 9th OCTOBER 2026

PC:-

1. Heard Mr. Nemade, learned Counsel appearing for the Petitioner and Mr. Jadhav, learned APP appearing for the Respondent-State.

2. By this Writ Petition filed under Article 227 of the Constitution of India, the challenge is to the legality and validity of the impugned order dated 23rd March 2026 passed by the learned Judicial Magistrate First Class ("**JMFC**"), 44th Court, Andheri, Mumbai, below application for issuing of Non-Bailable Warrant ("**NBW**") against the Respondent in C.C. No.42/DV/2021. By the

said order, NBW has been issued against the Petitioner for non-payment of the oustanding maintenance amount.

3. It is submitted by Mr. Nemade, learned Counsel appearing for the Petitioner by relying upon the decision of the Nagpur Bench in the case of ***Sachin s/o. Suresh Bodhale vs. Sushma w/o. Sachin Bodhale***[1], that NBW cannot be issued for non-payment of amount of interim maintenance awarded under the provisions of the Protection of Women from Domestic Violence Act, 2005. It is further submitted that the learned Magistrate is required to follow the procedure prescribed under the Code of Criminal Procedure, 1973, for enforcement of an order directing payment of maintenance, whether such order is interim or final.

4. Perusal of the record shows that by order dated 11th October 2024, the learned JMFC directed the Petitioner to pay maintenance of Rs.20,000/- per month to the Respondent. While passing the said order, the learned JMFC observed that the Respondent had studied only up to the 10th Standard and is without any maintenance. On the basis of the affidavit of assets and liabilities

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1 Criminal Writ Petition No.305/2014 (Nagpur Bench)

filed by the Petitioner, the learned JMFC noted that the Petitioner is a Mechanical Engineer earning a salary of Rs.1,00,000/- per month. In addition, he earns more than Rs.75,000/- per month by working as a coach. It has been noted that in fact, the annual turnover of his company is Rs.50,00,000/-.

5. The said order dated 11th October 2024 has been challenged by the Petitioner before the learned Appellate Court. However, it is pertinent to note that no stay has been granted to the operation of the said order.

6. In these circumstances, as the Petitioner was not paying the maintenance, the Respondent filed an application seeking issuance of an arrest warrant against the Petitioner on account of non-payment of the outstanding maintenance amount. By the impugned order, the learned Magistrate has allowed the said application.

7. During the hearing of this Writ Petition, the learned Advocate of the Petitioner has been asked to take instructions of deposit of at least 50% of the maintenance amount, however,

learned Counsel appearing for the Petitioner, on instructions, states that the Petitioner is not ready to deposit the said amount.

8. Although, learned Counsel has relied on the decision of a learned Single Judge in the case of ***Sachin s/o. Suresh Bodhale*** (supra), learned Trial Court has relied on the decision of this Court in the case of ***Sagar Sudhakar Shendge vs. Naina Sagar Shendge & Ors.***[2].

9. It is also required to be noted that this Writ Petition has been filed under Articles 226 and 227 of the Constitution of India. The writ jurisdiction is extraordinary and discretionary jurisdiction. This is a case where the Respondent who has passed only 10th Standard and without any maintenance for last about 5 years has filed domestic violence proceedings in the year 2021 along with application for interim maintenance. The learned JMFC passed the order below Exhibit-3 in C.C. No.42/DV/2021, which has been filed in the year 2021, on 11th October 2024 and granted payment of maintenance of Rs.20,000/- per month. For last five years, the Respondent is without any maintenance. As noted earlier, the

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2 2013 SCC OnLine Bom 1954

learned Trial Court has observed that the Petitioner is Mechanical Engineer and he is getting salary of Rs.1,00,000/- per month. Apart from that, he earns Rs.75,000/- as coach.

10. Accordingly, in the facts and circumstances, as the Petitioner is not ready to pay any maintenance amount, no interference in the impugned order is warranted.

11. The Writ Petition is dismissed.

[MADHAV J. JAMDAR, J.]

SONALI MILIND PATIL

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