VINA ARVIND KHADPE
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 4372 OF 2024

Mr. Kamalkishor Premnath Nimje … Petitioner
Age 43 Years, Occupation : Service,
Currently Residing at No.442, 1st Floor,
HRBR Layout, Bangalore – 560 016
Permanently R/at – Plot No.75
Rachna, Keshav Nagar,
Bhandara – 441 904

Versus

1. Mrs. Pradnya @ Komal
Kamalkishor Nimje
Age 37 Years, Occupation : working
R/at. Lahu Pandurang Sutar,
Swami Road, Bhosari,
Pune – 411 039.
2. The State of Maharashtra … Respondents

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Mr. Akshay Shetty for Petitioner.
Mr. Advait Bhonde for Respondent No.1.
Ms. Sharmila Kaushik, APP for Respondent-State.

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CORAM : M.M. SATHAYE, J.
DATE : 8 OCTOBER, 2026

P.C. :

1. Rule. Rule is made returnable forthwith. Learned Counsel for Respondent No.1 waives service of notice. Taken up for final disposal by consent of the parties.

2. The Petitioner is the husband and Respondent No.1 is his wife. The proceedings are arising out of maintenance application filed by Wife under section 125 of Code of Criminal Proceedings, 1973 (‘CrPC’ for short).

3. By this Petition filed under Articles 226 and 227 of the Constitution of India, the Petitioner/husband is challenging the order dated 06.07.2024 passed by the Additional Sessions Judge, Pune, in Criminal Revision Petition No.488 of 2022. By the said impugned order, the revision filed by Respondent No.1/wife, challenging the order of interim maintenance, was allowed, setting aside order dated 03.03.2022 passed by the Judicial Magistrate First Class, Pimpri Court, Pune, below Exh. 5 in Criminal Miscellaneous Application No.1125 of 2018 and directing Petitioner/husband to pay Rs.50,000/- per month as an interim maintenance to Respondent No.1-wife from the date of Application (27.11.2018). The Magistrate had granted maintenance of Rs.7000/- per month from the date of Application, which is increased to Rs. 50,000/- per month under impugned order.

4. The marriage took place in September 2007 and it appears that the dispute started sometime in December, 2017, i.e., after 10 years of married life.

5. According to Respondent No.1/wife, she was required to take shelter in her parents' house at Bhosari, Pune and the Petitioner/husband has not provided for her maintenance thereafter. According to the Petitioner/husband, Respondent No.1 / wife is not staying with him without sufficient reason and she had refused to accompany him when he decided to shift from Navi Mumbai to Bhandara.

6. The Petitioner/husband, at the time of filing of the

maintenance Application, was serving at Mumbai and he is currently employed in Bangalore.

7. Learned Counsel for the Petitioner submitted that the Magistrate had considered all the circumstances and had rightly granted interim maintenance of Rs.7000/- per month. He submitted that the notice of hearing of the Criminal Revision was not duly served upon the Petitioner / husband. He submitted that in absence of any change in circumstances, only on basis of house rent and various payments made towards maid charges and other expenses disclosed in the affidavit by husband, interim maintenance is exponentially increased from Rs.7000/- per month to Rs.50,000/- per month. He further submitted that the bank statements of Respondent No.1 / wife produced on record appear to show that she was receiving amounts which she has transferred to her brother. He further submitted that IT Returns are not filed by Respondent No.1/wife. He also submitted that Respondent No.1 / wife is willingly staying away and she is already occupying accommodation of her parents and there is no requirement of payment of rent. Therefore, the impugned order warrants interference for reduction of interim maintenance.

8. On the other hand, learned Counsel for Respondent No.1/wife submitted that in a revision challenging the order of the Magistrate, there need not be any change of circumstances, as the challenge to the original order is considered. He submitted that the amounts reflected in the Bank Statements of wife are sporadic in nature and do not indicate regular flow of income. He submitted that

Respondent No.1/wife is suffering from diabetes and certain skin disease, for which she requires medical treatment resulting in expenses. By pointing out various expenses of husband as declared in the affidavit of assets and liabilities, it is contended that the Petitioner /husband is earning well and regularly spending on house maid, high house rent and credit card bills showing his life style, which were already taken into consideration by the Revisional Court. He submitted that, therefore, no interference is required in the impugned order.

9. I have considered the rival submissions and perused the record.

10. It is not in dispute that initially the Petitioner / husband has filed restitution of conjugal right proceeding at Bhandara, however, the same was withdrawn. It is also not in dispute that Respondent No.1/wife had filed proceeding under Protection of Women from Domestic Violence Act, 2005 at Vashi which was also ultimately not prosecuted and dismissed for default. Recently, the Petitioner/husband has filed divorce proceedings.

11. It is submitted by learned Counsel for Respondent No.1/wife that the Petitioner/husband had left the matrimonial house when the dispute started, and forced the wife to take shelter with her parents. In the backdrop of such rival contentions and the factual position about the proceedings filed against each other, it can neither be said that Respondent No.1/wife is willfully staying away from the Petitioner/husband nor can the Petitioner's stand that 'Respondent No.1/wife can come and stay with him' be fully accepted. Hence

there is no clarity as to why the Respondent No. 1/wife is not staying with Petitioner/husband.

12. Be that as it may, increase in the amount of interim maintenance from Rs.7000/- per month to Rs.50,000/- per month is no doubt exponential. It is also true that Respondent No.1 / wife, does seem to have received credit entries periodically, with some breaks and the amounts seem to have been transferred in favour of her brother. It is also not disputed that she is staying with her parents and, as such, she is not required to pay separate rent for the same.

13. At the same time, the Court cannot lose the sight of the fact that the Petitioner / husband, though was served (refusal of postal packed recorded in roznama dated 12.7.2023) remained absent, and the Revision Petition was heard ex-parte. Notwithstanding the reasons for not remaining present, the Petitioner/husband apparently could not point out the Bank statements of the wife, as there is no reference to Bank statements of wife in the impugned order. The medical records showing that Respondent No.1 / wife is suffering from diabetes and some skin disease also have a bearing on the issue, as the same would require medical expenses.

14. During the pendency of this petition, when the parties were trying to resolve the issue of interim maintenance amicably, it was informed through learned Counsel for Respondent No.1 /wife that if the amount is partially reduced, and the arrears are cleared from the date of application, then Respondent No.1/wife was ready to face final hearing of the maintenance Application.

15. Since there is no clarity about the exact reason why Respondent No.1/wife is not staying with husband and considering that both the parties had filed the proceedings but not prosecuted them, and since the Bank statements of Respondent No.1/wife shows credit entries, which are not considered by the Revisional Court, and since Respondent No.1 /wife is already staying with her parents, in my view, partial reduction in the amount of interim maintenance is necessary.

16. Therefore, considering the overall circumstances, and for reasons indicated above, the Petition is partly allowed by passing the following order :

(A) The impugned order dated 06.07.2024 is set aside.

(B) Crim. Rev. Petition No. 488/2022 is allowed, thereby directing Petitioner/husband to pay Rs.35,000/- per month as an interim maintenance to Respondent No.1/wife from the date of Application i.e. 27.11.2018.

17. **Writ Petition is disposed of and Rule is made partly absolute in the above terms.** There shall be no order as to costs.

18. It is clarified that the observations made in this order are limited to deciding the aspect of interim maintenance and the main proceedings Crim. Misc. Appli. No.1125 of 2018 shall be decided on its own merits and in accordance with law without being influenced by the present order.

19. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)