



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

CRIMINAL WRIT PETITION NO. 728 OF 2025

1. Govind s/o Sri Gopal Innani aged about 29 years, Occ. Business
2. Sri Gopal s/o Puranmalji Innani, aged about 57 yrs, Occ. Business
3. Sau Rajkanwar w/o Sri Gopal Innani aged about 51 yrs, Occ. Housewife
4. Punith s/o Sri Gopal Innani aged about 24 yrs, Occ. Business

All 1 to 4 r/o 10/139 to 142, Punjab National Bank, Municipal Office Road, Mancherial Tah. Mancherial, Dist. Adilabad, Telangana.

... PETITIONERS

VERSUS

1. Sau. Krishna w/o Govind Innani, aged about 28 yrs, Occ. Housewife,
2. Ku. Nishta d/o Govind Innani, aged about 2 yrs, Occ. Nil, through Respondent no.1 being the natural guardian.

Both r/o c/o Anandkumar s/o Premchand Radand, Behind Gurudeo Medical, Bazar Ward, Tq. And Dist. Chandrapur.

(Mob.No.9455545388)

... RESPONDENTS

Shri A. Aananthakrishnan, Advocate for the petitioners.
Mrs. N. Singh, Advocate for respondents.

CORAM: M.M. NERLIKAR, J.

DATE :09.06.2026.

ORAL JUDGMENT :

1. **RULE.** Rule made returnable forthwith.
2. Heard the learned Counsel appearing for the parties.
3. By way of the present petition, the petitioner husband is challenging the order dated 11.07.2025 passed by the learned Judicial Magistrate First Class, Chandrapur in PWDVA Application No.173/2022 below Exhibit 24 whereby Distress Warrant was issued against the petitioner husband for recovery of outstanding amount due against the respondents.
4. Learned Counsel for the petitioner husband submits that the application was filed by the wife. Though the husband has filed the say to that application, however, the same was not taken into consideration and therefore, according to the learned Counsel for the petitioner husband, the impugned order is bad in law.

5. On the other hand, learned Counsel for the respondent wife vehemently opposed the petition stating that despite several opportunities, the petitioner has failed to appear before the Court. The husband is avoiding to pay the interim maintenance amount and therefore there was no other option left with the respondent wife but to file an application for issuance of distress warrant. As the say was filed, however, it cannot be said that the opportunity of hearing was not granted to the husband. Learned Counsel for the respondent wife submits that nearly Rs.11 lakhs are in arrears. Therefore, the petition deserves to be dismissed.

6. I have considered the rival submissions. It is not in dispute that the learned JMFC has granted interim maintenance to the wife and daughter to the tune of Rs.30,000/- per month. It appears from the record that the husband is in arrears of maintenance amount. As could be seen from the record that the said order of interim maintenance was challenged by the petitioner husband before the Appellate Court and the same is still pending. As the husband is in arrears of huge amount, the respondent wife was compelled to file an application for issuance of distress warrant and accordingly, the petitioner husband has filed a say to the said

application. Further it appears that before passing of the impugned order, he was not heard by the learned Magistrate.

7. The petitioner husband has already deposited the amount of Rs.1,50,000/- before this Court, which was withdrawn by the wife. The learned Counsel for the petitioner husband additionally undertakes to deposit an amount of Rs.2 lakhs before the concerned Trial Court. The purpose of filing of this petition would be served by directing the Magistrate to hear the petitioner and thereafter to pass the order.

8. Considering the undertaking made by the petitioner husband and the submission made by both the parties, I am inclined to allow the petition. Hence the following order :

- (a) The Writ Petition is partly allowed
- (b) The impugned order dated 11.07.2025 passed by the Judicial Magistrate First Class, Chandrapur in PWDVA Application No.173/2022 is hereby quashed and set aside and accordingly Exhibit 24 is restored.
- (c) The petitioner husband shall deposit an amount of Rs.2 lakhs before the Trial Court within six weeks from today. The wife is permitted to withdraw the same.

(d) After depositing the amount, the Trial Court is hereby directed to grant an opportunity of hearing to the petitioner husband before passing an order on the application at Exhibit 24 filed by the respondent wife for issuance of distress warrant.

(e) As the petitioner has challenged the order of interim maintenance before the Appellate Court, the Appellate Court is requested to decide the said appeal by granting an opportunity of hearing to both the parties as early as possible.

9. With these observations, the petition stands disposed of.

Rule is made absolute.

(M.M. NERLIKAR, J.)

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