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

CRIMINAL WRIT PETITION NO. 1032/2025

Smt. Komal w/o Gurudev Waghmare,
@ Komal d/o Devidas Bhute,
Aged 23 yrs., Occ. Housewife,
R/o. C/o. D/o. Devidas Marotraoji Bhute,
Plot No.572, Badabhav Santajimut, Kamal
Chouk, Nagpur

...**PETITIONER**

VERSUS

Gurudev S/o Eknathji Waghmare,
Aged 33 yrs., Occ. Business,
R/o. Near Chamat Lawn, Waghmare
Kirana Shop, Kharbi, Post Wathoda,
Nagpur.

...**RESPONDENT**

Mr. P. A. Dubey, Advocate for petitioner.
Mr. R.D. Dharmadhikari, Advocate for respondent-sole

CORAM : M. M. NERLIKAR, J.
DATE : 27/03/2026

ORAL JUDGMENT :

Heard.

2. The Petitioner is the wife challenging the common order below Exh. 19 in Criminal M.A. No.9/2025 and Exh. 07

in Petition No. E-82/2024 dated 16/10/2025, wherein the respondent No.1 husband, is directed to pay monthly interim maintenance of Rs.7,000/- to the petitioner-wife from the date of application i.e. 29/02/2024 till disposal of the petition.

3. Learned Counsel for the petitioner submits that The petitioner has instituted two proceedings i.e. under Section 125 of the Code of Criminal Procedure as well as under Section 12 of the Protection of Women from Domestic Violence Act and the Family Court has passed a common order granting interim maintenance of Rs.7,000/- in both the proceedings. Though the Court has observed that respondent husband is earning Rs. 60,000/- to 70,000/- or more as the husband is having sufficient sources of income, however, only Rs.7,000/- was granted by the Family Court in both proceedings. He submits that as per the income tax returns of the respondent, the total annual income was shown as Rs.4,88,060/- for the year 2024-2025. The respondent is having several lands, the documents to that effect are already placed on record, therefore according to him at least 25% of Rs.60,000/- to Rs.70,000/- ought to

have been granted by the Trial Court. For that purpose, he relied on the judgment of the Supreme Court in the case of ***Kalyan Dey Chowdhury Vs. Rita Dey Chowdhury Nee Nandy, (2017) 14 SCC 200***.

4. On the other hand, the learned counsel appearing for the respondent, by filing written submissions, submits that the stage of interim maintenance is different from the passing of the final order. The object of interim maintenance is limited and specific i.e. it is to ensure that the aggrieved spouse is not rendered destitute or subjected to undue financial hardship during the pendency of the litigation. He submits that it is the discretion of the Court while computing and granting the interim maintenance. It does not crystallize any rights. The rights would be crystallized only after full-fledged inquiry/trial, therefore he submits that the respondent is earning a meagre amount of Rs.30,000/- to Rs. 32,000/- his mother is dependent on him. Whatever income sources, the same has already been disclosed in his affidavit of assets and liabilities. Considering the discretion exercised by the Trial

Court, the High Court is not expected to interfere in the discretion. He submits that petitioner-wife is an educated lady and she cannot sit idle. He has relied on the judgment of the Madhya Pradesh High Court in the case of S***hikha Vs Avaneesh Mahodaya, 2024 SCC Online MP 5791***. Lastly, he submits that considering the discretionary relief granted by the Family Court, this Court may not interfere and accordingly he submits that there is no merit in this case and the same deserves to be dismissed.

5. I have heard the learned counsel for the petitioner as well as the learned counsel for the respondent. After hearing their submissions, it appears from the record that the respondent-husband has placed on record his income tax return for the year 2024-2025, which shows that his annual income is Rs.4,88,060/-. It further appears that the Trial Court has come to the prima facie conclusion that the respondent is earning around Rs. 60,000/- to 70,000/- per month or more, however the fact remains that the income tax return shows that he is earning Rs. 4,88,060/- annually. Without going into all the

contentions, the case can be considered on the basis of the income tax returns for grant of interim maintenance. It is further to be mentioned that unless and until full-fledged inquiry/trial is conducted, the interim maintenance is granted as a solace to the wife, as observed by the Rajasthan High Court in the case of ***Divik Ostwal s/o. Virendra Kumar Vs Ambika Jain w/o Divik Ostwal*** (S.B. Criminal Revision Petition No.684/2025, decided on 03/02/2026) in paragraph Nos. 15, 16, 17 and 18 which are reproduced as under:-

> *"15. The grant of interim maintenance does not amount to a final or conclusive determination either on the entitlement of the wife to maintenance or on the quantum thereof. The discretion exercised at the interim stage is tentative, provisional and purely has conclusively established her entitlement to maintenance, nor can it be treated as a binding determination of the exact amount that she may ultimately be entitled to receive. The purpose of interim maintenance is limited and specific. It is to ensure that the aggrieved spouse is not rendered destitute or subjected to undue financial hardship during the pendency of the litigation, which, by its very nature, may take considerable time to reach its logical conclusion.*
>
> *16. It is equally well settled that an order granting interim maintenance does not partake the character of a*

determination of arrears, nor does it crystallize any vested right in favour of either party. The amount so awarded is merely a stop-gap arrangement, operative till the final adjudication of the application under Section 12 of the Domestic Violence Act. The Court, at this stage, does not decide what the wife actually deserves, whether she ultimately deserves maintenance at all, or what should be the precise quantum of maintenance after a full-fledged inquiry. These issues fall squarely within the scope of the trial, where evidence is to be adduced, tested by cross-examination, and subjected to critical judicial scrutiny by the learned Trial Court.

17. The underlying object of interim maintenance is to prevent immediate hardship and financial deprivation to the claimant during the pendency of the proceedings. It is not intended to confer any share in the income of the husband, nor does it create any partnership or proprietary interest in his earnings.

18. Maintenance, particularly interim maintenance, is a measure of social justice, designed to ensure subsistence and dignity, and not to equalize incomes or to punish one party by imposing an onerous financial liability. The quantum fixed at the interim stage is necessarily approximate, based on a broad and prima facie assessment of the status of the parties, the apparent earning capacity of the husband, the needs of the wife, and other relevant circumstances, including the fact that the custody of the minor child in the present case is with the husband."

6. In view of the above observations, by considering income tax returns of the respondent-husband the interim maintenance can be granted as Rs.10,000/- per month.

7. The learned counsel for the respondent-husband in all fairness submitted that the respondent-husband would clear all the arrears dues in four instalments i.e. from April to July 2026. The fairness of the learned counsel for the respondent-husband is appreciated and the statement made is also accepted. Hence, the following order:-

ORDER

(I) The petition is partly allowed.

(II) The common order passed by Family Court, Nagpur No.2 in Petition Nos. Cri. M.A.09/2025 and E-82/2024 dated 16/10/2025 is modified only to the extent of granting maintenance of Rs. 7,000/- to Rs.10,000/- per month.

(M. M. NERLIKAR , J.)

Gohane

Signed by: Mr. J. B. Gohane
Designation: PS To Honourable Judge
Date: 27/03/2026 18:39:47