



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

CRIMINAL WRIT PETITION NO. 1075 OF 2025

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Praful S/o Krishnaji Ganvir,
Aged about: 41 years, Occ: Private,
R/o Plot No.11, Khante Nagar,
Near B.R. Ambedkar, Library,
Mahendra Nagar, Tah. & Dist. Nagpur.

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PETITIONER

- - V E R S U S - -

- 1] Sau. Sonam W/o. Praful Ganvir,
Aged about- 30 Years, Occ. Housewife.
- 2] Ku. Zinnia, D/o Praful Ganvir,
Through (Respondent No.1),
Aged- 02 Years, Occ. Nil,
[Both the Respondents C/o Bhimrao Kamble,
House No. 641, Indira Nagar,
Jattarodi Galli No.03, Nagpur,
Tah. & Dist. Nagpur].

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RESPONDENTS

Mr. N.C. Nagapure, Advocate for the Petitioner.

Mr. Usaiduddin Quazi, Advocate h/f. Mr. Muzammil Shahzad
Hussain, Advocate for the Respondents.

CORAM : M.M. NERLIKAR, J.

DATE : MARCH 24, 2026.

ORAL JUDGMENT:

Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for both the parties.

2. By this petition, the petitioner has challenged the order dated 24/04/2025 passed below Exh.6 and order dated 13/11/2025 passed below Exh.23 passed in Petition No.E-166/2024 by the Family Court, (Court No.2), Nagpur.

3. The learned counsel for the petitioner principally submits that in the order dated 24/04/2025, passed below Exh.06 by the Judge, Family Court, Nagpur, (Court No.2), it is stated that none were present for the respondent though called out repeatedly. However, the fact remains that he has not even filed the Vakalatnama in the said case. He submits that there are two proceedings initiated before the Family Court. One is

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by the present petitioner for restitution of conjugal right and another was instituted by the wife under Section 125 of the Code of Criminal Procedure, 1973. He submits that he was regularly attending the proceedings which was initiated by him and he is appearing in that case, however, as the parties in both the proceedings are same, it appears that, the Court has considered his appearance in Section 125 of Cr.P.C. proceedings also. He submits that when the order was passed, he has not filed the Vakalatnama in the proceedings instituted by the wife under Section 125 of the Cr.P.C. He has filed Vakalatnama on 14/10/2025, much after the order was passed by the trial Court granting maintenance of Rs.4,000/- to wife and Rs.2,000/- to the children. He submits that one opportunity be granted to contest the application of interim maintenance. The order was passed *ex-parte* and, therefore, if one opportunity is granted, he will contest the application and, therefore, submits that the impugned order is bad in law. He further submits that so far as the order dated 13/11/2025 is

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concerned, he has filed application at Exh.23 for setting aside no WS order, however, that application was allowed subject to costs of Rs.10,000/- payable to the petitioner till next date and further the respondent was directed to pay 50% of the due interim maintenance amount as it stood due on the date of the order till next date. Therefore, he submits that both orders be quashed and one opportunity be granted to the petitioner to contest the proceedings filed by the wife under Section 125 of the Cr.P.C.

4. On the other hand, the learned counsel for the respondent-wife vehemently opposed the petition on the ground that it is not an *ex-parte* order granting interim maintenance. He submits that the counsel for the petitioner appeared in the matter, however, he has not filed Vakalatnama. He further submits that the Court has granted him opportunity, however, he did not remain present. The order speaks for itself, wherein it is observed that, the respondent though appeared in

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the matter, but did not file his say. He further submits that even the other impugned order dated 13/11/2025, the Court has rightly passed the order stating that he was allowed to file written statement subject to costs of Rs.10,000/- and as there was interim maintenance arrears, 50% of the arrears was directed to be deposited and, therefore, he submits that there is no perversity in both the orders and, therefore, there is no merit in the petition.

5. I have considered the rival submissions. At the outset, the learned counsel for the petitioner submits that the petitioner is ready to deposit Rs.75,000/- with the Family Court. In this view of the matter, considering the fact that the petitioner has not been granted opportunity and further it appears from the record that though the Court has observed *“none present for the respondent though called out repeatedly”* and further observed that *“record shows that respondent though appeared in the matter, but did not file his say”*, this

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impugned order was passed on 24/04/2025, however, the fact remains, that the petitioner has filed the Vakalatnama on 14/10/2025, i.e., much after the passing of the interim maintenance order. It is further to be noted that so far as the other impugned order dated 13/11/2025 is concerned, that application of the petitioner at Exh.23 was allowed subject to costs of Rs.10,000/- and further directing deposit of 50% of the due interim maintenance towards the petitioner, even that care can be taken care of by directing the petitioner to deposit Rs.75,000/- before the Family Court, Nagpur.

6. Considering this fact, I am inclined to **partly allow** the petition by setting aside the impugned order dated 24/04/2025. Further, the order dated 13/11/2025 is quashed and set aside only to the extent of cost of Rs.10,000/- and further payment of 50% of due interim maintenance amount. However, the same is subject to deposit of Rs.75,000/- by the petitioner in the Family Court within two weeks from today.

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The Family Court is directed to grant opportunity to both the sides before deciding the application for interim maintenance afresh. The Family Court shall decide the application of interim maintenance on its own merits. The wife is permitted to withdraw the amount of Rs.75,000/-. With the above observations the Criminal Writ Petition is **disposed of**. Rule is made absolute in above terms.

[**M. M. NERLIKAR, J**]