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

CRIMINAL WRIT PETITION NO. 169 OF 2026

Samir Khan Jamir Khan

-- VERSUS --

Rubina Parveen Samir Khan

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr. Sahil Mate, Advocate a/w. Mr. Abhishek Zade, Advocate for the Petitioner.

CORAM : M.M. NERLIKAR, J.

DATE : MARCH 05, 2026.

Heard.

2. The petitioner is challenging the order dated 31/08/2023, passed by the Judicial Magistrate First Class, Darwha, wherein monthly interim maintenance of Rs.6,000/- was granted to the wife of petitioner from the date of main application till its final decision. The revision preferred by the petitioner was also dismissed by the Additional Sessions Judge, Darwha, by an order dated 09/12/2025.

3. The learned counsel appearing for the petitioner submits that, affidavit of assets and liabilities is not filed by the petitioner and, therefore, he may be granted one opportunity to file the affidavit of assets and liabilities. He further submits that, the income of the petitioner is Rs.8,000/-, as he is doing the job of mechanic. The findings to the

extent of granting monthly interim maintenance of Rs.6,000/- are against the settled principle of law. He further relies on the judgment of the Supreme Court in the case of ***Aditi Alias Mithi Vrs. Jitesh Sharma, (2024) 14 SCC 355,*** and submits that the applicant be permitted to file affidavit of assets and liabilities.

4. I have considered the submissions of the petitioner. It appears from the impugned order of the Magistrate that the petitioner was granted opportunity to file the affidavit of assets and liabilities, however, the petitioner has failed to file the same. Further, monthly interim maintenance of Rs.6,000/- was granted, however, I do not see any perversity in the impugned order. The Additional Sessions Judge, Jarwa, has considered the case in detail, and accordingly, arrived at a conclusion dismissing the appeal. The learned counsel for the petitioner relies on Paragraph Nos.14 of the judgment of ***Aditi Alias Mithi (supra).*** Paragraph No.14 is reproduced below:-

> *"14. Nothing is evident from the record or even pointed out by the learned counsel for the appellant at the time of hearing that affidavits were filed by both the parties in terms of the judgment of this Court in Rajnesh cases, which was directed to be communicated to all the High Courts for further circulation to all the Judicial Officers for awareness and implementation. The case*

in hand is not in isolation. Even after pronouncement of the aforesaid judgment. this Court is still coming across number of cases decided by the courts below fixing maintenance, either interim or final, without there being any affidavit on record filed by the parties. Apparently, the officers concerned have failed to take notice of the guidelines issued by this Court for expeditious disposal of cases involving grant of maintenance. Comprehensive guidelines were issued pertaining to overlapping jurisdiction among courts when concurrent remedies for grant of maintenance are available under the Special Marriage Act, 1954. Section 125 CrPC, the Protection of Women from Domestic Violence Act, 2005, the Hindu Marriage Act, 1955 and the Hindu Adoptions and Maintenance Act, 1956, and criteria for determining quantum of maintenance, date from which maintenance is to be awarded, enforcement of orders of maintenance including fixing payment of interim maintenance. As a result, the litigation which should close at the trial level is taken up to this Court and the parties are forced to litigate."

No doubt, that the Supreme Court in the case of ***Aditi Alias Mithi (supra),*** has again reiterated what has been held in ***Rajnesh VS. Neha & Anr., (2021) 2 SCC 324,*** and those observations / guidelines will have to be followed in its true letter and spirit. However, if the parties fails to file the affidavit of assets and liabilities in spite of giving

opportunity, no fault can be founded on the part of learned Magistrate or the learned Additional Sessions Judge who have passed the impugned orders. It is further to be noted that main matter is still pending before Court below and, therefore, the petitioner is having opportunity to file the affidavit of assets and liabilities. Therefore, I do not see any perversity or any error and I decline to interfere in the impugned orders, and accordingly, the petition is **rejected**. The observations of this Court are restricted to the present petition only.

[M.M. NERLIKAR, J]

PIYUSH MAHAJAN