



IN THE HIGH COURT OF JUDICATURE AT BOMBAY¹
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3507 OF 2024

Deepti Mohan Das

...Petitioner

Versus

Avinash Krishnamurthy

...Respondent

Hemal Ganatra & Khushbu Shah i/b. Usha Tanna for Petitioner.
Mr. Atharva Dandekar, Mr. Pratik Amin, Mr. Pratik Poojary, Mr.
Harsh Agarwal i/b. Pratik Amin Associates for the
Respondent.
Mr. Avinash Krishnamurthy present in person.

CORAM : MANJUSHA DESHPANDE, J.

RESERVED ON : 28th NOVEMBER 2025

PRONOUNCED ON : 09th DECEMBER 2025

JUDGMENT:

1. Rule. Rule made returnable forthwith and heard finally with the consent of parties.

2. The Petitioner wife being dissatisfied with the Orders passed by the Family Court, Mumbai at Bandra in Interim Application No. 93 of 2019, passed below **Exh.6** dated 01.12.2013, refusing to Award maintenance to her and awarding an amount of Rs. 15,000/- per month

¹ This Judgment is corrected as per the Speaking To the Minutes order dated 12/12/2025.

maintenance to her daughter, from the date of passing of order is approaching this Court with the prayer to quash and set aside the impugned order and Award her Interim maintenance of Rs. 25,000 /- each to herself and her daughter during the pendency of the Hindu Marriage Petition.

3. The brief facts of the case in nutshell are that, the Petitioner and Respondent got married on 16.12.2010, at Mumbai, as per Hindu Vedic Rites. A daughter namely Ananya is born out of their wedlock on 08.05.2014. It is alleged by the Petitioner that, she was subjected to extreme cruelty in the form of physical, verbal and emotional harassment by the Respondent and his family. As a result she was constrained to reside separately alongwith her parents and minor daughter. There was also an incident of taking away the minor daughter on the pretext of summer vacation and not returning her custody by the Respondent. which resulted in filing of Petition for *Habeas Corpus* before this Court, pursuant to which the Custody of child was returned to the Petitioner.

4. The Petitioner has filed proceeding for Divorce before the Family Court at Bandra, Mumbai by invoking Section 13 (1) (ia) of the Hindu

Marriage Act, 1955 (“HMA”) alongwith Interim Application under Section 24 of the HMA, 1955, claiming maintenance of Rs. 25,000 /- each for herself and their daughter Ananya, also with a prayer to Award Rs. 20,000 /- per month towards rent and directions to the Respondent to pay sum of Rs. 2 Lakhs as expenses of the litigation. Both the parties have filed Affidavit of Assets and Liabilities alongwith Bank Statements and based thereon the order impugned came to be passed by partly allowing the Application granting relief only to the extent of minor daughter Ananya by awarding maintenance of Rs. 15,000 /- per month from the date of passing of the order.

5. I have heard the respective parties at length, Advocates Ms. Usha Tanna for the petitioner and Mr. Atharva Dandekar for the Respondent, with their assistance I have also perused the Writ Petition and the relevant documents placed on record.

6. The learned Advocate, Ms. Usha Tanna for the Petitioner challenges the order refusing to grant maintenance to the Petitioner as well as quantum of maintenance to the minor daughter and the date of grant of maintenance from the date of passing of order, instead of date of making the application as contemplated in law. At the outset, the first

ground of challenge to the order is that, the order granting maintenance is always passed from the date of the Application. Relying on the judgment in case of *Rajnish Vs. Neha*² it is submitted that, in the landmark judgment it is categorically held by the Hon'ble Apex Court that, considering the time taken by the Courts in deciding the maintenance application, the parties seeking maintenance are deprived of sustenance therefore in order to protect wife and child from destitution and vagrancy, the maintenance is to be paid from the date of application. Thus, according to the learned Advocate the maintenance awarded to the minor child needs to be paid from the date of application.

7. The other objection is regarding the conduct of the Respondent. According to him no sooner the Respondent got the knowledge about the Divorce petition filed by the Petitioner, he has taken a car loan and resigned from his job. Thereafter, he has also obtained a top-up loan from the Bank on his already mortgage property, in order to demonstrate his financial incapacity and avoid paying maintenance. It is also submitted that the Respondent has not produced Bank statements and ITRs in accordance with the guidelines issued in the case of *Rajnish*

2. (2021) 2 SCC 324

(Supra). In order to demonstrate the regular income of the Respondent, the Advocate relies on the entries in the Bank statements of the Respondent which discloses regular deposits of amounts in his bank account. The entries from 06.05.2019 onwards are the few entries of salary deposits made by UBS Business solutions which continues upto 25.05.2021, which shows salary of Rs. 1,28,239 /- repeatedly deposited in his account. It is therefore contended that the Respondent is having resources, as well as capacity to pay maintenance as claimed by the petitioner, despite which he has opposed the Interim Application.

8. It is submitted that, the learned Judge of the Family Court was not justified in relying on a solitary entry of Rs. 61,596 /- dated 31.05.2018, credited in the account of Petitioner towards her salary, to hold that it is doubtful as to whether her salary can be reduced after a span of 12 years. It is held that, on the background of the fact that the Petitioner has claimed that her salary was Rs. 43,157 /- including HRA in October, 2010, comparing the salary of October 2010, with the Salary slip of Rs.32,156 /- for March 2022, creates doubts about the actual salary, which according to the learned Judge cannot be reduced to such extent after 12 years. As a result, an adverse inference has been drawn against the Petitioner.

9. The other objections of the Petitioner are that the Respondent has not filed his Bank Statements, Salary Slips and Form 16-A reflecting his real income, reliance is placed on the judgment of this Court dated 18.06.2025 in ***Sachindra Kamlaprasad Shukla Vs. Priya Sachindra Shukla*** in Writ Petition No. 16275 of 2023, and decision of Delhi High Court in Criminal Revision Petition No.162 of 2021 dated 28.02.2022 in ***Jaspreet Singh Vs. Swaneet Kukreja*** in support of his contention that, even a working wife is entitled for interim maintenance. In addition reliance is also placed on the judgment of this Court in Writ Petition No. 7536 of 2019 in ***Dr. Rajlaxmi Walavakar Vs. Mr. Madhusudan Alias Amod Dalvi*** decided on 11th December, 2024 and in Writ Petition No. 5267 of 2024 ***Mrs. Sangita Chawla D/o. Mr. Satish Kumar Chawla Vs. Mr. Suryanarayan Ganesh S/o. Mr. K.N. Ganesh***, decided on 2nd September, 2025 to contend that the Interim Application is to be granted from the date of its filing of Application and not from the date of order.

10. Per contra, the learned Advocate, Mr. Atharva Dandekar for the Respondent has vehemently opposed the Writ Petition by pin-pointedly raising certain issues, which according to him are the issues germane for decision in the present Writ Petition.

It is his submissions that this Writ Petition, filed by invoking Article 227 of the Constitution of India, has a very limited scope for interference in the orders passed by the subordinate courts. Only in case of perversity, arbitrariness, material irregularity or an obvious illegality which is apparent from the face of record, there is any scope for interference by this Court in its supervisory jurisdiction under Article 227 of the Constitution of India.

11. He further submits that in the Interim Application filed by the Petitioner, she has made claim for monthly maintenance of Rs.25,000 /- for herself and 25,000 /- for the child; commensurating with the income of the Respondent. The learned Judge, Family Court has granted Rs. 15,000 /- per month after taking into consideration the financial status of the Respondent which is a very reasonable amount.

12. It is submitted that, while granting maintenance under Section 24 of the Hindu Marriage Act, 1955 certain necessary conditions are required to be fulfilled. The Applicant is required to prove that she/he is not having sufficient means/resources of sustenance during the pendency of proceedings between the parties. At the same time the non-applicant has sufficient income to maintain the Applicant during the

pending proceedings between the parties. Only upon fulfillment of these two conditions Interim maintenance can be granted under Section 24 of the Hindu Marriage Act. In the present case, record reveals that the Petitioner was earning 61,596 /- on 31.05.2018 itself. Therefore, the Petitioner had failed to discharge the burden of proving that, she is unable to maintain herself.

It is submitted that the account statements of the Petitioners account in Kotak Mahindra Bank, discloses that the Petitioner has earned Rs. 74,194 /- from trading and Rs.7,97,190 /- from mutual funds. Account statements of ICICI Bank and few more transactions made by the Petitioner reflects that, she has a fairly good income from the other financial resources, thus according to him on this background the Learned Judge, Family Court has refused to award maintenance to the Petitioner which cannot be faulted with.

13. Upon hearing the parties, it is evident that the scope of the Writ Petition is restricted only to the two issues. Firstly, whether any case is made out by the Petitioner for causing interference in the order passed by the Judge, Family Court, for exercising powers under Article 227 of the Constitution of India. Upon going through the order it is evident

that, the learned Judge, has relied on the averment made by the respective parties as well as the Affidavit of Assets and Liabilities filed by the respective parties. This being an order passed on the application filed under Section 24 of HMA, 1955 for Interim maintenance, it is to be seen whether there is any material irregularity, in the order passed by the learned Judge of the Family Court. In the application filed by the Petitioner though she has claimed that she is not earning sufficiently to maintain herself as well as her daughter. In her Affidavit of Assets and Liabilities, it is disclosed by her that she is employed in Kotak Mahindra Bank, as a Deputy Manager, with salary of Rs.28,032 /- per month. Thus, she is a well qualified and independent woman working in a reputed establishment holding a good position. The learned Judge of the Family Court has already gone through the documents placed on record to draw an inference that it is not believable that, the salary of the Petitioner is Rs. 43,157 /- in October 2010. By no stretch of imagination, it can be downgraded to Rs.32,156/- per month in March 2022.

14. The learned Advocate for the Petitioner has tried to justify the reduction in salary by contending that in the year 2010, she was working with a different organization namely the Citi Bank, hence after

shifting of her employment to Kotak Mahindra Bank, her salary has been reduced. The justification given by the Petitioner is not acceptable. The learned Judge of the Family Court has recorded that there is an entry towards deposit of salary of the Petitioner of an amount of Rs. 61,596 /- dated 31.05.2018, while working in the same organization i.e. Kotak Mahindra Bank, hence it creates doubts, about the other entries of her salary.

15. Pertinently, apart from the salary of the Petitioner, her statement of Accounts in various Banks such as Kotak Mahindra Bank, ICICI Bank discloses the dividend earned by her by trading, in mutual funds and shares. More particularly an amount of Rs. 7 lakhs reflected in her ICICI Demat account reflects that she is having other source of income.

16. Thus, all these transactions support the status of the Petitioner as an independent woman with sufficient means to maintain herself. As regards interim maintenance of Rs. 15,000 /- per month granted in favour of daughter is concerned it is claimed by the Petitioner that the monthly expenses of their daughter is approximately of Rs. 43,250 /-, it is not supported by any documents such as the receipts of the School fees, Bus fees, Stationary etc. In Para No. 92 of the judgment of ***Rajnish***

(Supra), it is held by the Hon'ble Supreme Court that educational expenses of the children must be normally borne by the father, but if the wife is working and earning sufficiently, expenses must be shared proportionately between the parties. In the present case though the Petitioner has claimed 43,250 /- considering the tendency of the parties to claim inflated amounts. It can be safely assumed that the Petitioner must be incurring expenses of Rs. 30,000 /-. As such the Respondent is liable to bear, half of the amount required for the maintenance for their child. Therefore, the learned Judge has rightly arrived amount of Rs. 15,000 /- to be paid by the Respondent. By observing that the Respondent being the father is required to shoulder the responsibilities of the child and therefore should contribute towards her maintenance.

17. So far as the refusal to grant any of amount towards alternate accommodation and litigation expenses is concerned, since this court has already taken a view that the Petitioner is working in a reputed organization with sufficient income, therefore the Petitioner is not entitled for any amount towards alternate accommodation and litigation expenses.

The Courts are required to strike a balance between the claim made by the Applicant due to her inability to sustain during the proceedings and the capacity of the non-applicant based on his actual income and reasonable expenses for his own maintenance and needs of other dependent family members.

18. This Court does not find any merit in the argument of the Petitioner for enhancement of the amount of maintenance awarded to the daughter and other reliefs refused to the Petitioner by the Family Court, Mumbai. However, upon bare perusal of the impugned order it can be discerned that the learned Judge has committed an error, while granting the interim maintenance to the daughter from the date of order, instead of from the date of application. The issue about applicability of the maintenance upon passing of order in favour of the Applicant, has been already set to rest by the Hon'ble Supreme Court in the judgment of *Rajnish (supra)*. It has been held that the maintenance should be granted from the date, when the application was made, the object behind the maintenance laws is to protect a deserted wife and dependent children from destitution and vagrancy. If the maintenance is not granted from the date of application the parties seeking

maintenance is deprived of sustenance owing to the time taken for disposal of the application, which often runs into several years.

19. In the present case, the Application has been made on 15.07.2019, while the order has been passed on 01.12.2023. There is a gap of 4 years in making the application and its decision. Thus, the observations made by the Hon'ble Supreme Court in the case of *Rajnish (supra)* are squarely applicable to the facts of present case. Hence, in my view the order impugned needs to be modified to that extent by granting interim maintenance awarded to the daughter from the date of the application.

Accordingly, the Writ Petition is partly allowed, the Respondent husband is directed to pay interim maintenance of Rs. 15,000 /- per month to the daughter from the date of filing of the application.

20. Rule is made absolute in the above terms.

[MANJUSHA DESHPANDE, J.]

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