



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3828 OF 2024

M [REDACTED] [REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dadar, Mumbai-400 028

...Petitioner

Versus

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] Dadar West,

Mumbai-400 028.

...Respondent

Mr. Samarth Moray i/b. Ms. Shivani Shinde, for the Petitioner.

Mr. Vikramaditya Deshmukh a/w Ms. Priya Chaubey i/b. Ms. Sapana
Rachure, for the Respondent.

Ms. S.S. Kaushik, APP, for the Respondent-State.

CORAM : MANJUSHA DESHPANDE, J.

RESERVED ON : 05th DECEMBER 2025

PRONOUNCED ON : 12th DECEMBER 2025

JUDGMENT :-

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

2. The Petitioner challenges the judgment and order dated 22.08.2023, passed by the Judge, Family Court No.7, Bandra, Mumbai, below Exhibit 10A, in Petition No. A 1899 of 2020, a prayer is made to set aside the said order and enhance the interim maintenance to Rs. 3,50,000/- p.m. or such other and higher amount as this Court deems fit, just and proper, from the date of the application filed by the Petitioner.

3. The undisputed facts of the case are that, the petitioner and the Respondent were married on 11.04.2014. There are two minor children (1) Sana Amit Khajanchi born on 31.12.2008 and (2) Yana Amit Khajanchi born on 27.01.2014. The Petitioner has completed her education up to 12th Class and is a home-maker, while the Respondent is a graduate in Commerce. He works along with his father, and is managing the family business, namely,

‘Khajanchi Exports’. The Respondent filed Petition for Divorce on 10.09.2020, in the Family Court at Bandra, which is numbered as MJ Petition No. A-1899 of 2020. The Petitioner also filed maintenance Petition No. C-2 of 2021 on 04.12.2020 for maintenance under Hindu Adoption and Maintenance Act, 1956. During the pendency of maintenance Petition filed by the Petitioner, she had also filed an interim maintenance application under Section 24 of the Hindu Marriage Act, 1955 (“HMA”) in the Divorce Petition filed by the Respondent.

4. During the pendency of the interim maintenance application, interim Consent Terms were entered into between the parties on 12.02.2021, thereby agreeing for an amount of Rs. 20,000/- p.m. to be paid by the Respondent, towards daily expenses of the Petitioner and her two daughters. The arrangement as per the Consent Terms continued till the decision in the Interim Application for maintenance which was decided vide order dated 22.08.2023, partly allowing the application, by directing the Respondent-Husband to pay interim maintenance of Rs. 50,000/-

p.m., each to the Respondent-Wife and their two daughters, from the date of passing of the order. It is this order passed by the Judge, Family Court, Mumbai, passed below Exhibit 10-A, dated 22.08.2023, impugned in this Writ Petition.

5. The learned Advocate Mr. Samarth Moray, appearing for the Petitioner submits that, it needs to be appreciated that, the Petitioner is educated only up to 12th Standard, and she is not trained to do any work. She is a home-maker, with no special skills necessary for being employed. She does not have any independent source of income to maintain herself and their two daughters. Therefore, she has claimed interim maintenance of Rs. 3,50,000/- for maintenance of herself and her two daughters from the Respondent. On the contrary, the Respondent is coming from a wealthy background, enjoying sound financial position. In the affidavit of assets and liabilities filed by the Respondent, the monthly income disclosed by the Respondent is Rs. 3,98,870/- p.m. In his affidavit of Assets and Liabilities he has disclosed that, he owns a two BHK Flat at Lodha Amara and has inherited

residential property at Bhagya Apartments, Prabhadevi, Dadar, Mumbai where he is presently residing. He has 1/3 share in the family business 'M/s. Khajanchi Exports', which deals in export of food items where he is a partner.

6. On this background, the Petitioner had claimed Rs. 3,50,000/- towards maintenance of herself and her two daughters which is proportionate to the income of the Respondent, and commensurates with the life-style enjoyed by the Petitioner and her two daughters.

7. It is submitted that, in the Affidavit of Assets and Liabilities, the Respondent has suppressed the complete details of his other sources of income from the properties, viz., rental income from Saba Palace, Khar West, Mumbai, and Bhagya Apartments, Dadar, Mumbai, where he is residing since December 2020.

8. It is further submitted that, the 'Family Trust', of which the Petitioner was also one of the beneficiary, has been dissolved on 30.11.2018. The mother of the Respondent and his two sister have

executed necessary documents in his favour, hence, he is the sole beneficiary of that Trust, which is not disclosed by him. The life-style enjoyed by the Respondent can be gathered from the standard of car driven by him, which is a BMW Gran Turismo (GT) series, the price of which ranges between 40 to 50 lakhs.

9. Although it is claimed that, the Petitioner was filing ITRs and her share is of 35 lakhs, the Petitioner had no knowledge about her share holding and even the ITRs that were filed in her name by the Respondent. She has merely put her signatures on the necessary documents as and when asked by the Respondent. The Petitioner, being a home-maker, has no knowledge about the finances of the Respondent and the transactions that have been made in her name. Considering the income of the Respondent, and the life-style which the Petitioner and her daughters have enjoyed till their separation, the petitioner has claimed the maintenance of Rs. 3,50,000/-. On this background, the order passed by the Judge, Family Court Room No.7, Bandra, Mumbai, dated 22.08.2023, is

totally insufficient and falls much short of the needs of the Petitioner.

10. The learned Advocate, submits that, though the affidavit of Assets and Liabilities filed by the Respondent and his financial status reflects the affluent background of the Respondent, the Court has committed error by granting maintenance to a much lower side than her entitlement. This is presumably on account of the income disclosed in her name from the ITRs for the years 2017 to 2021. Relying on the ITRs and the income disclosed in the respective years, the Court has come to the conclusion that, the Petitioner appears to have some source of income. In this regard, the learned Advocate relies on the judgment of the Hon'ble Supreme Court in the case of *Kiran Tomar & Ors. V/s. State of UP & Anr.*¹, to submit that, ITRs do not necessarily furnish accurate guide about the income of an individual particularly, when the parties are engaged in matrimonial conflict. Therefore, the Family

¹ 2022 SCC Online SC 1539

Court has to take a holistic view of the matter and pass appropriate order.

11. It is further submitted that, even while passing the order, there is no clarity regarding the amount of maintenance awarded to each of the daughter. In the operative order, it is held that, *'the husband is directed to pay interim maintenance of Rs. 50,000/- p.m. each to the Respondent wife and their two daughters from the date of passing of this order'*. The word 'each' is to be interpreted to mean Rs.50,000/- for the two daughters individually. On the contrary, the interpretation given to the said order by the Respondent is *'Rs.50,000/- p.m. is awarded together for the two daughters'*. If the income of the Respondent is taken into consideration, along with the standard of living enjoyed by the two daughters, it will have to be interpreted as *'Rs. 50,000/- each, to the two daughters individually'*.

12. It is further submitted that, the impugned order is also vulnerable for the reason that, though it is settled position of law that, the maintenance is to be granted from the date of application,

the Judge, Family Court, has awarded maintenance from the date of passing of the order. This order awarding maintenance from the date of order is not supported by any reason. According to the learned Advocate, it seems that the Judge, Family Court, has relied on the Consent Terms entered between the parties on 12.02.2021, as an interim arrangement. However, that cannot be a ground to deny maintenance to the Petitioner from the date of her application. He relies on Paragraph No.113 of the Judgment of ***Rajnish V/s. Neha & Another²***, where directions are issued to bring uniformity and consistency in the orders passed by all Courts while granting maintenance. It is held that, maintenance is required to be awarded from the date of application. It is, therefore, submitted that, the impugned order, is ambiguous with no clarity and passed against the mandate contained in the ***Rajnish (supra)***, needs to be set aside by granting maintenance amount of Rs. 3,50,000/- p.m. for the Petitioner and her two daughters.

13. *Per Contra*, the learned Advocate Mr. Vikramditya Deshmukh, for the Respondent, submits that, the Petitioner has
2 (2021) 2 SCC 324

filed interim maintenance application on 14.12.2020 when the COVID-19 pandemic was at its peak. Therefore, an interim arrangement was worked out between the parties, by entering into interim Consent Terms on 12.02.2021, which is a part of the record. As such, the Respondent has been paying Rs. 20,000/- p.m. to the Petitioner and their two daughters from 12.02.2021 onwards. After passing of the orders by the Family Court, he has not challenged the order passed by the Family Court, Bandra, and is making payment of Rs. 50,000/- p.m. to the wife and Rs.50,000/- p.m. to the two minor daughters.

14. Apart from making payment of maintenance as directed by the Family Court, Bandra, he is taking care of all the household expenses of the Petitioner like educational expenses, tuition fees, school fees, electricity bills, phone bills, maintenance bills, etc. He relies on the two statements annexed to his reply, which shows that he has spent an amount of Rs. 19,080/- towards the expenses of their daughter Yana in month of September 2023. Similar statements showing her expenses of each month up to May 2025,

have been placed on record. He also relies on the fee receipts of Bombay Scottish School. Similar chart showing expenses of his daughter Sana is also placed on record to indicate that, though he is paying monthly maintenance for their expenses, over and above that amount, he is also taking care of other expenses of his children, being a responsible and loving father. Hence, according to him, the order passed by the Judge, Family Court, has been issued/rendered after taking into consideration all the documents placed on record.

15. It is submitted that, considering the fact that he was already paying Rs. 20,000/- p.m., during the pendency of the interim application filed by the Petitioner, the Judge, Family Court, has rightly passed an order, granting maintenance from the date of order. Thus, no fault can be found with it.

16. He also submits that, the income disclosed by him in his affidavit of assets and liabilities is an undisputed figure, therefore, the amount of maintenance is required to be quantified on the basis of his income that is Rs. 3,98,870/-. Since he is already

taking care of other expenses like school fees and other necessities of the children as well as the maintenance of his house, the amount of maintenance awarded by the Family Court is just and sufficient. There is no ambiguity in the order passed by the Judge, Family Court, as claimed by the Petitioner.

17. Referring to the observation made in operative part of the order he would submit that, it is observed by the Judge, Family Court that, it would be appropriate to grant Rs.50,000/- p.m. each to the Respondent as well as both the daughters. The word 'both the daughters' is used to mean the maintenance of Rs. 50,000/- is collectively awarded to the two daughters. The sentence 'as well as both of the daughter' is to be read conjunctively. Therefore, there is no doubt when the operative order says Rs.50,000/- each to the Respondent Wife and their two daughters, it would mean Rs. 50,000/- it is collectively awarded for the two daughters. The claim of the Petitioner is an inflated claim, which is more than his income. Thus, the prayer made by the Petitioner does not deserve any consideration and the Writ Petition deserves to be dismissed.

18. I have heard the respective the parties and perused the documents placed on record.

19. The challenge raised by the Petitioner basically rests on three grounds (1) On the quantum of maintenance awarded; (2) Whether the amount of maintenance granted to the daughters has to be read as Rs. 50,000/- p.m. to each daughter or Rs. 50,000/- to both the daughters collectively? and (3) Whether the order granting maintenance is to be passed, from the date of the order or from the date of application?

20. The amount of income disclosed by the Respondent is not disputed by the Petitioner. Assuming without admitting, even if the amount of income disclosed by the Respondent is more than his actual income, it does not mean that a proportionate part of his income is to be awarded to the wife and children. The maintenance has to be in proportion with the needs of the children.

21. The Respondent has already placed on record the receipts of the School fees and other activities which is taken care by him and apart from that, he is already paying Rs. 25,000/- p.m. for each of the child. Though the Petitioner has claimed general monthly expenses incurred by her to be Rs. 3,87,333/-, she has not given any details or break-up of the expenses needed for each month. Thus, claim of the Petitioner has to be appreciated on the background of the admitted income of the Respondent, i.e., Rs. 3,98,870/-.

22. Apart from the admitted income from the business, the other sources of income are available with the Respondent, which is not denied by him. He himself has placed on record certain documents, demonstrating the expenses borne by him for his two daughters, list of various expenses itself discloses the standard of life being enjoyed by the Petitioner and her two daughters. All these factors would weigh while quantifying the maintenance admissible to the wife and dependent children. After determining the relevant factors about the financial status and income of the Respondent,

comparing standard of living and the reasonable needs of the Petitioner and their two daughters, the amount admissible towards maintenance, can be fixed.

23. Admittedly, the Petitioner, being the primary caregiver, needs to take care of the two daughters of growing age, who are accustomed to particular life-style. But, her claim of Rs. 1 lakh for the two daughters appears to be inflated and not supported by any documents. As against that, the Respondent has placed on record the expenses of school fees, transport, extracurricular activities, taken care of by him by making payments. He has also placed on record various other receipts of medicine and bills of credit cards, showing purchases made and bills paid by him for the children.

24. On this background, the claim of Rs. 1 lakh each for the two daughters though appears to be exorbitant. Though the Respondent is claiming to be taking care of it, those expenses, which appear to be necessary, it cannot be left to the discretion or mercy of the Respondent. The affidavit of assets and liabilities of the respective parties reflect their standard of life and the income

of the parties. The approximate income disclosed by the Respondent is Rs.3,98,870/-, from which only a meager amount of Rs.50,000 and Rs.25,000, respectively is being paid to the Petitioner and her daughters by interpreting the order passed by the Judge, Family Court. After deducting Rs. 60,000/- for his personal expenses as claimed by the Respondent, it leaves more than Rs. 3 lakhs at his disposal. Considering the list of necessary expenses given by the Respondent, Rs. 50,000/- p.m. collectively to the two daughters also appear to be insufficient.

25. The Family Court while passing the order has observed that the monthly income of the Respondent is Rs.3,98,870/- as disclosed by the Respondent, the amount of Rs. 50,000/- p.m. is a meager amount for the two daughters of growing age and it is inadequate and very less. On this background, the words 'each' used in the order assumes importance. At the beginning of the operative order itself, the amount of Rs. 50,000/- has been mentioned and it is followed by the word 'each' to the Respondent-Wife and their two daughters. It will have to be interpreted as Rs.

50,000/- to the Wife and each of the daughters individually. The word 'each' will have to be read as each of the two daughters individually. As such, the order passed by the Judge, Family Court, will have to be read as the interim maintenance payable by the Respondent to the Petitioner-Wife and the daughters is, Rs. 50,000/- each p.m individually.

26. As regards the issue of order awarding maintenance from the date of order is concerned, all the ambiguity and confusion has already been set to rest by the Hon'ble Supreme Court in the judgment of ***Rajnesh (supra)***, which clearly mandates that the maintenance has to be paid from the date of application.

27. On the question of the date of awarding maintenance, the Hon'ble Supreme Court held in ***Rajnesh (supra)*** that '*maintenance will be awarded from the date of the application.*' This principle has been reaffirmed by the Hon'ble Supreme Court Supreme Court in ***Parvin Kumar Jain v. Anju Jain***³ where the Court observed that '*relief under Section 24 can only be granted from the date of filing*

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of the application.’ The Family Court’s omission to follow this mandate without assigning reasons constitutes an error apparent on the face of record.

28. The Nagpur Bench of this Court in the case of ***Sau. Pradnya @ Anjali w/o. Ajay Kukde & Anr. V/s. Ajay s/o. Bakaramji Kukde⁴***, has also held that maintenance should ordinarily be granted from the date of the application, and that deviation from this rule must be supported by reasons. The Respondent’s reliance on the interim Consent Terms to resist retrospective maintenance is, therefore, misplaced.

29. In light of the above, it is evident that the Judge, Family Court, has not undertaken the comprehensive evaluative exercise required by law. The Petitioner’s financial vulnerability, her role as sole caregiver and the Respondent’s earning capacity, were not assessed in their proper perspective. The Judge, Family Court, also failed to apply the mandatory rule regarding date of awarding

4 Family Court Appeal No.14 of 2017 decided on 22.02.2021

maintenance. These omissions constitute errors warranting correction in the supervisory jurisdiction of this Court.

30. The Consent Terms entered between the parties did not create any bar for the Court to grant maintenance from the date of application particularly on the background of the fact that, the date on which the Consent Terms were entered, it was the peak time of COVID-19. Therefore, the Petitioner had agreed to that amount, without prejudice to her right to receive the amount of maintenance quantified by the Court.

31. The **Writ Petition is partly allowed** for the reasons recorded herein. The Judge, Family Court, has not applied the governing legal principles in their correct perspective, and the impugned order is liable to be modified to that extent.

At the same time, it also needs to be appreciated that, the above directions of the Hon'ble Supreme Court apply in the case where no maintenance is paid during the pendency of Interim Application. However, in the present case, by way of interim

arrangement between the parties, as a result of the Consent Terms, the Petitioner was receiving an amount of Rs. 20,000/- p.m. from 12.02.2021. Hence, this amount is needed to be considered while granting the maintenance quantified by the Court, while deciding the Interim Application. While calculating the arrears admissible to the Petitioner, the amount(s) of Rs. 20,000/- p.m. already paid by the Respondent shall be deducted and balance of the amount will have to be paid to the Petitioner.

32. As a result, the impugned order passed by the Family Court dated 22.08.2023 is modified, and the rule is made absolute in the following terms :

(i) The Petitioner and the two daughters are individually entitled for maintenance of Rs. 50,000/- p.m. from the date of application.

(ii) The amount(s) of Rs. 20,000/- p.m. already paid by the Respondent during the pendency of the Interim Application, shall

be adjusted while making the payment of arrears of maintenance
admissible to the Petitioner.

(MANJUSHA DESHPANDE, J.)