

## **ORDER BELOW EXH.1 IN H.M.P. NO.63/2018**

Petitioner has filed an application (Exh.5) under Section-24 of the Hindu Marriage Act to grant maintenance pendente-lite to her.

2. The Supreme Court in the case of **Rajnish Vs. Neha (Criminal Appeal No.730 of 2020 decided on 04.11.2020)** has framed guidelines on certain aspects relating to the payment of the maintenance in matrimonial matters. In part-VI (Page-55) of the judgment, Supreme Court has issued final directions. They read as under :-

### **VI- Final Directions**

*In view of the foregoing discussion as contained in Part B – I to V of this judgment, we deem it appropriate to pass the following directions in exercise of our powers under Article 142 of the Constitution of India :*

#### *(a) Issue of overlapping jurisdiction*

*To overcome the issue of overlapping jurisdiction, and avoid conflicting orders being passed in different proceedings, it has become necessary to issue directions in this regard, so that there is uniformity in the practice followed by the Family Courts/District Courts/Magistrate Courts throughout the country. We direct that :*

*(i) where successive claims for maintenance are made by a party under different statutes, the Court would consider an adjustment or set-off, of the amount awarded in the previous proceeding/s, while determining whether any further amount is to be awarded in the subsequent proceeding;*

*(ii) it is made mandatory for the applicant to disclose the previous proceeding and the orders passed therein, in the subsequent proceeding;*

*(iii) if the order passed in the previous proceeding/s requires any modification or variation, it would be required to be done in the same proceeding.*

#### **(b) Payment of Interim Maintenance**

*The Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of this judgment, as may be applicable, shall be filed by both parties in all maintenance proceedings, including pending proceedings before the concerned Family Court/District Court/Magistrates Court, as the case may be, throughout the country.*

*(c) Criteria for determining the quantum of maintenance*

*For determining the quantum of maintenance payable to an applicant, the Court shall take into account the criteria enumerated in Part B-III of the judgment.*

*The aforesaid factors are however not exhaustive, and the concerned Court may exercise its discretion to consider any other factor/s which may be necessary or of relevance in the facts and circumstances of a case.*

*(d) Date from which maintenance is to be awarded*

*We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B – IV above.*

*(e) Enforcement / Execution of orders of maintenance*

*For enforcement / execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28A of the Hindu Marriage Act, 1956; Section 20(6) of the D.V. Act; and Section 128 of Cr.P.C., as may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC, more particularly Sections 51, 55, 58, 60 r.w. Order XXI. (emphasis added)*

3. Thus, the parties to the maintenance proceeding are required to submit the affidavit of disclosure of Assets and Liabilities which have been annexed as enclosures I, II & III with the above mentioned judgment of the Supreme Court. The Supreme Court has made it clear that the parties has compliance said directions in all maintenance proceedings, including pending proceedings.

4. In view of the above, petitioner and the respondent are directed to read the above noted judgment of the Supreme Court and to comply the directions issued by it.

Date : 22.02.2021.

3<sup>rd</sup> Jt. Civil Judge (S.D.),  
Washim.

**"CERTIFICATE"**

I affirm that the contents of this P.D.F. file Order are same word to word as per original Order.

Name of Stenographer : **Shivam B. Patange (L.G.)**  
Court & Judge Name : S.K.Khan,  
3<sup>rd</sup> Jt. Civil Judge (S.D.) Washim.  
Date of Order : 22.02.2021.  
Order signed by the  
Presiding Officer on : 22.02.2021.  
**Order uploaded on : 22.02.2021.**