

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 2590 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MRS. JUSTICE M. K. THAKKER**

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Approved for Reporting	Yes	No
		✓
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SHYAM YAGNESH SACHDEV
 Versus
 NAMEE W/O SHYAM SACHDEV

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Appearance:
 DHARUVIN P BHUPTANI(8295) for the Petitioner(s) No. 1

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CORAM: HONOURABLE MRS. JUSTICE M. K. THAKKER**Date : 27/02/2026****JUDGMENT**

1. This petition is filed by the petitioner-husband challenging the order dated 11.12.2025 below Exh.20 passed by learned Principal Judge, Family Court, Bhavnagar in Family Suit No.44 of 2022 whereby, the learned Family Court has allowed the application filed by the wife under section 24 of the Hindu Marriage Act, 1955 and granted interim maintenance of Rs.25,000/- to the wife and the minor child till the decision of the main petition filed by the husband under section 9 of the Hindu Marriage Act, 1955.

2. The factual matrix is as under:

3. The marriage of the petitioner and the respondent-wife was solemnized under the Hindu rites and rituals on 23.01.2013 at Bhavnagar in Gujarat and out of the said wedlock, one child namely Reyaan Shyam Sachdev was born. Both the petitioner and respondent were staying together at Hyderabad with the parents of the petitioner and on 17.08.2020, the wife along with the son left the matrimonial company of the husband without assigning any reason and went to the parental house, since then the wife was staying with her parents at Bhavnagar. With above contention, the petitioner filed the application under section 9 of the Hindu Marriage Act, 1955 at Family Court, Hyderabad which later came to be transferred to the Family Court, Bhavnagar in pursuance to the order passed by the Apex Court in the transfer petition being Family Suit No.44 of 2022. Pending the said application, the wife filed an application, under section 24 of the Hindu Marriage Act seeking maintenance for herself and the son pendente lite the proceedings, filed under section 9 of the Act.

3.1. Subsequently, the wife filed the application under section 125 of Cr.P.C being Criminal Miscellaneous

Application No.327 of 2020 before the Family Court at Bhavnagar, wherein the learned Family Court rejected the said application vide order dated 16.06.2022 on the ground that granting interim maintenance would delay the disposal of the main proceedings and in the event of any delay, the liberty was reserved for the wife to move for interim maintenance. Thereafter, again an order came to be passed in the application below Exh.20 seeking maintenance pendente lite of the proceedings of Family Suit No. 44 of 2022 and the learned Family Court allowed the said application directing the petitioner to pay the interim maintenance pendente lite at the rate of Rs.25,000/- towards the respondent-wife and the son, which is subject matter of challenge before this Court.

4. Heard learned advocate Mr.Dhruvin Bhuptani for the petitioner-husband.

4.1. It is submitted by learned advocate Mr.Dhruvin Bhuptani that the respondent-wife is a well educated person, she is having the degree of Bachelors in Business Administration (BBA) and is capable of earning her livelihood. It is submitted by learned advocate that the respondent-wife is working on the position of

Executive Marketing at one of the establishment namely Sweet Dream India which establishes that she is capable of earning for herself and her son's livelihood. It is also submitted that in addition to said job, the respondent-wife also took tuition classes to maintain herself and her son. It is further submitted by learned advocate Mr.Dhruvin Bhuptani that the learned Court has also rejected the application filed for interim maintenance under section 125 of Cr.P.C and without considering the same, the learned Family Court has granted the maintenance to the wife and the son which is erroneous and therefore, the same is required to be set aside. It is submitted by learned advocate Mr.Bhuptani that multiple attempts were made for mediation between the parties, pursuant to which, she returned to her matrimonial home for 7 to 8 days with her parents however, thereafter she abruptly left the matrimonial home stating that she would like to take decision later and would inform the petitioner-husband. It is submitted by learned advocate Mr.Dhruvin Bhuptani that she has refused to resume cohabitation without any cogent or sufficient reason and simultaneously, insisting upon

continuation of maintenance proceedings. It is submitted by learned advocate Mr.Dhruvin Bhuptani that the applicant is having responsibility of aged parents who are dependent on the petitioner and has to meet with unavoidable monthly expenses. It is submitted by learned advocate Mr.Dhruvin Bhuptani that learned trial court has taken into consideration the inflated income of the petitioner without any cogent proof and therefore, the impugned judgment deserves to be set aside and the order passed to pay the maintenance at the rate of Rs.25,000/- to the wife and son of the petitioner is required to be quashed. It is also submitted by learned advocate Mr.Dhruvin Bhuptani that alternatively, the amount is required to be reduced as the amount awarded is excessive and beyond the capacity of the petitioner-husband and therefore also, impugned judgment deserves to be interfered with and the present petition is required to be allowed.

5. Having considered the submissions made by learned advocate Mr.Dhruvin Bhuptani and on referring the reasons assigned by the learned Family Court, while passing the order below Exh.20, it emerges that the

contention raised by the petitioner-husband that the wife was working at some company namely Sweet Dream India as Executive Marketing, the said submission was considered by the learned Family Court. It is held by the learned Court that as per the submissions made by learned advocate for the respondent-wife, she was going to her uncle's garment factory namely Sweet Dream India for some period as she was suffering from mental stress and was under the treatment of Dr.Keyur Parmar, M.D Psychiatrist, Bhavnagar who had suggested her to do some work so as to come out of the trauma, which she was passing from and due to the advice of the doctor, her uncle permitted her to join in the said company for sometime, however she was not paid any amount towards salary neither was having any independent work or service. To substantiate the claim that the respondent-wife is working at some place, the husband has put before this Court the print copy of LinkedIn and photographs taken from Facebook from the month of September 2022 to show that she is working as Executive Marketing in the said firm. However, the order is passed by learned Court in the

month of December 2025 and all these documents are pertaining to 2-3 years back from the date of passing the order. In addition to same, an affidavit was filed by the wife before the learned Family Court in order to comply with the directions issued by the Apex Court in the case of ***Rajnesh Vs Neha reported in AIR 2021 SC 569*** is also noteworthy wherein, the respondent-wife categorically declared that she has no other independent income. In that background, in absence of any other cogent evidence or affidavit filed, to show that on the day when the order was passed, wife was having independent income to meet with the expenses which is to be borne for contesting the proceedings filed by the husband, learned Court is justified in passing the order directing the present petitioner to pay the amount of maintenance at the rate of Rs.25,000/- for respondent-wife as well as the son who is aged about 7 years.

- 5.1. The other ground being raised by learned advocate Mr.Dhruvin Bhuptani is that the respondent is an educated woman and having degree of BBA and therefore, is capable of earning for herself and her son's livelihood. To consider this argument, this Court has

referred to the decision rendered by the Apex Court in the case of ***Manish Jain Vs Akanksha Jain reported in (2017) 15 SCC 801*** wherein, the Apex Court has held that merely the wife being educated and able support herself would not absolve the husband to pay the maintenance pendente lite and expenses of proceedings. The relevant paragraph is reproduced hereinbelow:

15. Section 24 of the HM Act empowers the Court in any proceeding under the Act, if it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of any one of them order the other party to pay to the petitioner the expenses of the proceeding and monthly maintenance as may seem to be reasonable during the proceeding, having regard to also the income of both the applicant and the respondent. Heading of Section 24 of the Act is “Maintenance pendente lite and expenses of proceedings”. The Section, however, does not use the word “maintenance”; but the word “support” can be interpreted to mean as Section 24 is intended to provide for maintenance pendente lite.

16. An order for maintenance pendente lite or for costs of the proceedings is conditional on the circumstance that the wife or husband who makes a claim for the same has no independent income sufficient for her or his support or to meet the necessary expenses of the proceeding. It is no answer to a claim of

maintenance that the wife is educated and could support herself. Likewise, the financial position of the wife's parents is also immaterial. The Court must take into consideration the status of the parties and the capacity of the spouse to pay maintenance and whether the applicant has any independent income sufficient for her or his support. Maintenance is always dependent upon factual situation; the Court should, therefore, mould the claim for maintenance determining the quantum based on various factors brought before the Court.

5.2. The learned advocate Mr.Dhruvin Bhuptani has argued that as the petitioner is having the responsibility of old aged parents therefore also, he is unable to comply with the order passed by learned Family Court. It is required to be noted that wife is also the responsibility of the husband along with the child who is born out of the wedlock and is aged about 7 years and ignoring the responsibility towards wife and the son on the ground that the husband has to meet with the expenses of his old aged parents cannot be considered as a ground to dis-entitle the wife and son from the maintenance.

5.3. Additionally, the learned Family Court has recorded in the order that as per the income tax return filed by the husband, which are also part of the present petition, the husband is having the yearly income of more than

Rs.11,00,000/- to Rs.12,00,000/- and doing the work as Real Estate Consultant and Building Material Consultancy and therefore, learned Court has awarded the maintenance at the rate of Rs.25,000/- to the wife and the son. It is submitted by learned advocate Mr.Bhuptani that only for one year i.e in the year 2020-2021 the petitioner-husband earned around Rs.11,00,000/- to Rs.12,00,000/- as per the income tax return, but subsequent to that year he does not have the same income. Even if that is the situation, then also one cannot believe that a person who is earning Rs.11,00,000/- per annum as per his income tax returns, would suddenly go down to the extent of having an income of Rs.1,29,000/- as per the assessment for the year 2022-23, however, that would be the matter of Income Tax Authority to scrutinize but it can be certainly inferred that only because of the proceedings which are initiated by the respondent-wife in the year 2022, after being separated from the petitioner-husband in the year 2020, to create the defence for not meeting with the proceedings or to absolve himself from the payment of maintenance, such return might have been filed.

- 5.4. The last ground raised by the learned advocate Mr.Bhuptani that learned Criminal Court has also dismissed the interim application filed by the wife under section 125 of Cr.P.C., however, on referring the reasons assigned by the learned trial court, it emerges that learned trial court opined that if the interim maintenance would be granted then it may result into delay in disposal of the main application, as the same is not subject matter of challenge, this Court refrains from making any observations however, such arguments cannot be considered for denying the maintenance of a wife and child during the pendency of proceedings which are filed before the learned Family Court.
6. Considering the over all submissions and perusing the record, this Court is of the opinion that no interference is required in the order dated 11.12.2025 below Exh.20 passed by learned Principal Judge, Family Court, Bhavnagar in Family Suit No.44 of 2022 and the present petition being devoid of merits, requires to be rejected.
7. Resultantly, this petition is rejected.

ARCHANA S. PILLAI

(M. K. THAKKER,J)