

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.216 OF 2023

Anita Gajanan Nagmode

Age: 25 years, Occupation: Service

Resident Of: C/o Maharashtra State Electricity

Development Company, Circle Office

Sanglegallr, Latur, Taluka & District Latur.

... Applicant

Versus

1. Sudhakar Baburao Nagmode

Age 62 years, Occupation: Nil

2. Mangal Sudhakar Nagmode

Age: 60 years; Occupation: Household

Both Respondents Resident of: Kokate Nagar,

Opposite Namdev Mandir, Latur, District: Latur.

... Respondents

...

Mr. Akshay Dhananjay Kulkarni, Advocate for the Applicant

Mr. R. K. Ashtekar h/f Mr. D. N. Gilche, Advocate for the Respondents

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CORAM: S. G. CHAPALGAONKAR, J.

DATED: 11.09.2023

JUDGMENT :

1. **RULE.** Rule made returnable forthwith by consent of the parties.
2. The applicant impugns the judgment and order dated 12/04/2023, passed by the learned Family Court, Latur, in Petition No. E-209/2021, by which, the applicant is directed to pay a sum of Rs.2500/- each to the respondents under Section 125 of the Criminal Procedure code [for short 'Cr.PC'].

3. The applicant herein is a daughter-in-law of the respondents. The husband of the applicant died on 24/12/2015 on account of motor vehicle accident leaving behind the applicant/wife, a son and parents. The applicant applied for compassionate appointment in pursuance of the scheme of employer. The respondents have given no objection for such appointment. Accordingly, the applicant has been appointed in service on compassionate basis.
4. It is the contention of the respondents that the applicant maintained them for some period. Thereafter, she raised a quarrel and left the house along with her son. The applicant had given an undertaking to the employer at the time of her appointment on compassionate basis that, she will maintain the family members /dependents of deceased. However, the applicant has breached her undertaking and refused to maintain the respondents. Therefore, they approached the Family Court under Section 125 of Cr.PC seeking direction to pay maintenance against the applicant.
5. The present applicant opposed the plea for maintenance on the ground that under Section 125 of Cr.PC, there is no provision to direct daughter-in-law to pay the maintenance to father-in-law and mother-in-law of late husband. It is further contended that the respondents have four daughters, who are equally responsible to maintain parents. Respondents are having their own income from the agricultural land as well as rent of the property. It is further contended that the applicant has been maintaining the respondents, however, they are raising a quarrel with her and ultimately, driven her out of home. She requires to reside in a rented premise and incur the expenses of her son as well as herself. With this

contention, she prayed for rejection of the prayer.

6. The Family Court, after hearing the parties, allowed the application vide judgment and order dated 12/04/2023 and directed the applicant to pay the maintenance of Rs.2500/- each to the respondents from the date of the application. Aggrieved by the aforesaid judgment and order, present criminal revision application is filed before this Court.

7. Mr. Akshay Kulkarni, learned Advocate appearing for the applicant would submit that the father-in-law and mother-in-law cannot claim from widowed daughter-in-law under Section 125 of Cr.PC. He would invite attention of this Court to the provision of Section 125 to contend that the provision has been incorporated with specified object making provisions for the maintenance to particular class of person. The father-in-law and mother-in-law does not fall within the enlisted category. In that view of the matter, the learned Family Court acceded jurisdiction while directing the applicant / widowed daughter-in-law to pay the compensation to the respondents i.e. father-in-law and mother-in-law. It would be appropriate to refer the relevant provision of Section 125, which states as under:
 - “125. Order for maintenance of wives, children and parents – (1) If any person having sufficient means neglects or refuses to maintain -
 - (a) his wife, unable to maintain herself, or
 - (b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or
 - (c) his legitimate or illegitimate child (not being a married daughter) who has attained majority but where such child is, by reason or any physical or mental abnormality or injury, unable to maintain itself or
 - (d) his father or mother, unable to maintain himself or herself”

The bare perusal of the aforesaid provision would show that the persons enlisted in clauses – (a), (b), (c) and (d) of clause (1) of Section 125 of Cr.PC does not enlist father-in-law and mother-in-law within its scope.

8. Mr. Ashtekar, learned Advocate appearing for the respondents relying upon judgment of this court in the matter of **Saroj Mukkawar Vs. Smit Chandrakalabai Polshetwar**¹ would submit, when the daughter-in-law has been appointed on compassionate ground after demise of her husband and submitted undertaking to maintain dependents while securing appointment, it is her moral and legal duty to provide maintenance to the father-in-law and mother-in-law. Per contra Mr. Akshay Kulkarni learned Advocate for applicant would submits that in the subsequent judgments i.e. in **Criminal Revision Application No.139/2017 [Smt. Shakuntalabai W/o Chaudhari Vs. Sandhya Choudhary.]** this court took a view that Section 125 of Cr.PC does not provide for grant of maintenance in favor of father-in-law and mother-in-law.
9. Pertinently, Supreme Court of India in the case of **Kirtikant D. Vadodaria Vs. State of Gujrat**² held that when the legislature has impliedly excluded any other relations by expressly providing for only the specified list/relations to be entitled to claim maintenance, there is no scope for any other interpretation in the matter.
10. This Court in the matter of **Shakuntalabai (Supra)** observed that the relation of mother-in-law and father-in-law is conspicuously absent in section 125 of Cr.P.C.. As such, they are not entitled to

1 2009 (4) Mh. L. J. 665

2 1996 (4) SCC 479

take recourse to said provision. Similarly, in a recent judgment dated 12/04/2023, in Criminal Writ Petition No.1092/2022, in the matter of **Shobha w/o Sanjay Tidke Vs. Kishanrao S/o Ramrao Tidke**, this Court has reiterated the aforesaid legal position.

11. In view of the undisputed facts of the case and legal position as espoused in the aforesaid pronouncements, the judgment and order passed by the learned Family Court, whereby directions are given to applicant (daughter-in-law) to pay the maintenance to respondents i.e. her father-in-law and mother-in-law resorting to provisions of Section 125 of Cr.P.C cannot be sustained. However, the respondents shall be at liberty to resort for any other appropriate remedy permissible in law to claim relief against the applicant on the basis of undertaking given by her to employer at the time of appointment on compassionate ground. Hence, the following order:

ORDER

- (i) The Criminal Revision Application is allowed.
- (ii) The impugned judgment and order dated 12/04/2023, passed by the learned Family Court, Latur, in Petition No. E-209/2021, is hereby quashed and set aside.
- (iii) The respondents shall be at liberty to claim the similar relief in any other proceedings as permissible under law.
- (iv) The Criminal Revision Application is disposed of accordingly.
- (v) Rule is made absolute in the above terms.

[S. G. CHAPALGAONKAR]
JUDGE