

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR.**

**CRIMINAL APPLICATION (APL) NO. 1208 OF 2018**

**APPLICANTS**

Criminal Application  
(APL) No.1208/18 stands  
abated against applicant  
No.1 as per Court's Order  
Dt. 08/06/23.

- : 1. Shri Ganpat S/o. Laxmanrao  
Tembhe, Aged about 80 years,  
Occupation : Nil. (Dead)
2. Sau. Chandrakala Ganpatrao  
Tembhe, Aged about 67 years, Occ :  
Household,  
Both R/o. Shendurjana Ghat, Tq.  
Warud, Amravati, Distt. Amravati.

**//VERSUS//**

- NON-APPLICANTS** : 1. Gopal Ganpatrao Tembhe, Aged  
about 40 years, Occ: Service, R/o.  
Mahesh Colony, Warud, Tq. Warud,  
Distt. Amravati.
2. Manohar Ganpatrao Tembhe, Aged  
about 47 years, Occ: Cultivation,  
R/o. Shendurjana Ghat, Tq. Warud,  
Amravati, Distt. Amravati.

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Mrs. S.W. Deshpande, Advocate for the Applicants.  
Mr. A.S. Dhore, Advocate for Non-applicant No.1.

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**CORAM : G. A. SANAP, J.**

**DATED : 10<sup>th</sup> AUGUST, 2023.**

## ORAL JUDGMENT

In this application, filed under Section 482 of the Code of Criminal Procedure, 1973 (Cr.PC), challenge is to the judgment and order dated 26<sup>th</sup> October, 2018, passed by learned Additional Sessions Judge, Amravati, whereby learned Additional Sessions Judge allowed the revision filed by non-applicant No.1 and set aside the order dated 19<sup>th</sup> January, 2018, passed by learned Judicial Magistrate First Class, Warud, directing the non-applicant No.1 to pay monthly maintenance of Rs.750/- (rupees seven hundred and fifty) to his parents - applicant Nos.1 and 2.

02] The father - applicant No.1 died during the pendency of this application on 31<sup>st</sup> March, 2022. The relationship between the parties is not in dispute. The application for maintenance under Section 125 of the Cr.PC was filed by the parents against their two sons namely Gopal Ganpatrao Tembhe and Manohar Ganpatrao Tembhe. The learned Magistrate directed the non-applicants Gopal and Manohar to pay each Rs.750/- (rupees seven hundred and fifty) to the father and mother. Non-applicant No.2-Manohar did not challenge the said order. The learned Additional Sessions Judge set aside the said order against the non-applicant No.1-Gopal.

03] On going through the record and proceedings and the reasons recorded by the learned Additional Sessions Judge, I am of the view that the learned Additional Sessions Judge has not properly appreciated the evidence on record. The learned Magistrate, on the basis of the evidence adduced by the deceased father, found the father and mother entitled to get the maintenance from their sons. It is seen that the learned Additional Sessions Judge, in the exercise of revisional jurisdiction for the reasons which, in my view, are at all not supported by the record, set aside the well reasoned order.

04] It is to be noted that now the father - applicant No.1 is no more. The mother - applicant No.2 is around 80 years old. The parents, for the reasons stated in the application as well as put-forth in the evidence, prayed for maintenance from their sons. It has come on record that the non-applicant No.1-Gopal is doing service. He is also having agricultural land. Considering his position and income, the learned Magistrate found that he was liable to pay the maintenance to his parents. The learned Additional Sessions Judge, in my view, has committed a patent illegality in reversing the well reasoned order. Therefore, the impugned order deserves to be set aside.

05] Accordingly, the order dated 26<sup>th</sup> October, 2018, passed by the learned Additional Sessions Judge, Amravati in Criminal Revision No.10/2018, is set aside. The order passed by the learned Magistrate, awarding the maintenance at the rate of Rs.750/- (rupees seven hundred and fifty) per month by non-applicant No.1 -Gopal, is restored. The non-applicant No.1 -Gopal henceforth shall pay the amount directly to the mother - applicant No.2 or deposit in her account.

06] The application is disposed of in the above terms.

**(G. A. SANAP, J.)**

Vijay