



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 418 OF 2025

Mr. Kiran s/o Manohar Gaikwad,
Age : 38 years, Occu : Service,
R/o. Shivnagar Colony, Chalisgaon Road,
Kannad, Tq. Kannad,
Dist. Chhatrapati Sambhajnagar

...PETITIONER

VERSUS

1. Mrs. Mangal w/o Kiran Gaikwad,
Age : 42 years, Occu : Service,
2. Angel d/o Kiran Gaikwad,
Age : 10 years, Occu : Student,
Minor, through her mother, i.e.
Respondent No.1.
Mrs. Mangal w/o Kiran Gaikwad,
Both R/o. Datta Nagar, Shrirampur
Tq. Shrirampur, Dist. Ahmednagar.

...RESPONDENTS

WITH

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Tq. Shrirampur, Dist. Ahmednagar.

...RESPONDENTS

Mr. Khot Abhinay D., Advocate for the Petitioner.
Ms. Sunita G. Sonawane, Advocate for Respondents.

CORAM : ABHAY J. MANTRI, J.
DATE : NOVEMBER 21, 2025

JUDGMENT :

1. Heard learned counsel for the parties at length.
2. **Rule.** Rule is returnable forthwith with the consent of the parties.
3. The petitioner, being aggrieved by the order dated 23rd September 2024, passed by the learned Additional Sessions Judge, Shrirampur, in Criminal Revision Petition No.42 of 2023, whereby partly allowed the appeal and modified the order dated 07th July 2023, passed by the learned J.M.F.C., Shrirampur, in Criminal Miscellaneous Application No.97 of 2017, has approached this Court.
4. The learned counsel for the petitioner vehemently contended that the petitioner is receiving a salary of Rs. 8,000/- only in hand and, therefore, is unable to pay the maintenance amount of Rs. 6,000/-. However, the learned Magistrate erred in granting maintenance of Rs. 3,000/- each to respondent Nos. 1 and 2. For this purpose, he has drawn my attention to the salary certificate produced by him on record. (at page No.174). Upon perusal of the same, it appears that the petitioner is an employee of MSEDCL, working as a Senior Technician, and that his gross

salary is Rs. 72,529/-per month. The professional tax of Rs. 200/- and income tax deductions amount to Rs. 5,530/- (PT Rs. 200 and IT Rs. 5330). After deducting these statutory deductions from the gross salary, the petitioner receives approximately Rs. 65,000/- per month. Therefore, I do not find any substance in his contention that, after the deductions mentioned in the salary slip, he is receiving only Rs. 8,249/-. Hence, the said contention is rejected.

5. The learned counsel for the petitioner further drew my attention to the cross-examination of respondent No.1 and submitted that she is a qualified M.Com. and M.Ed., with teaching experience. Therefore, according to him, she is capable of earning for herself and her daughter. However, during her cross-examination, respondent No. 1 categorically deposed that she is not employed anywhere and that she has to look after her daughter; hence, she has not joined any institute. Similarly, the learned counsel for the petitioner has failed to point out from the record that respondent No. 1 is employed or earning any income. Therefore, I do not find any substance in his contention that respondent No.1 is able to earn money.

6. The learned counsel further submitted that on 12th November 2017, the parties had filed a compromise pursis before the learned Civil Judge Senior Division, Aurangabad in HMP No.69 of 2016, and the same was read and recorded. However, he has failed to demonstrate that the

parties acted upon pursuant to the said compromise pursis. Therefore, the said pursis does not support the petitioner's contention that a compromise had taken place and that, consequently, the respondents are not entitled to maintenance.

7. Lastly, he pointed out the medical papers of the petitioner's mother and submitted that she is suffering from ailments, and therefore, the petitioner is unable to pay the maintenance amount. He further submitted that respondent No.1 had also filed proceedings under Section 12 of the Prevention of Women from Domestic Violence Act, (for short "*DV Act*"), wherein the learned Magistrate granted maintenance of Rs.3,000/- to respondent No.1 and Rs.2,000/- to respondent No.2. However, the learned Magistrate did not consider the same while determining the maintenance amount.

8. On a bare perusal of the said order, it appears that on 27th June 2020, the learned Magistrate passed an order under the provisions of the DV Act, granting maintenance of Rs. 3,000/- to respondent No.1 and Rs. 2,000/- to respondent No.2. However, the petitioner failed to bring the said order to the notice of learned Magistrate. Therefore, it was not taken into account while passing the order.

9. It is further submitted that the petitioner had filed a Revision Application before the learned Sessions Court. However, even before the learned Sessions Court, he failed to bring to its notice the order passed in

the DV proceedings by the Competent Court, and therefore, the Revisional Court could not consider the same. Upon a query, the learned counsel for the petitioner was unable to point out from the record that the petitioner had brought to the notice of either the learned Magistrate or the learned Sessions Court the passing of the order in the DV proceedings. Therefore, I do not find any substance in his contention in that regard.

10. Apart from that, having considered his submissions and upon perusal of the record, it appears that the learned Magistrate, in the DV proceedings, has awarded a total amount Rs. 5,000/- i.e., Rs.3,000/- to respondent No.1 and Rs.2,000/- to respondent No.2 and under the maintenance proceedings also, the learned Sessions Court has awarded amount of Rs. 3,000/- each to both respondents. Thus, in both proceedings, the total maintenance awarded is Rs. 11,000/- only, which is less than 20% of the petitioners' net income of 65,000/-. Therefore, I do not find any substance in the contention that the amount awarded by the learned Magistrate is exorbitant.

11. It is pertinent to note that the petitioner does not dispute his relationship with the respondents, nor does he dispute that the respondents are residing separately and that he has not been providing any maintenance to them.

12. It is pertinent to note that it is an obligation of the husband to maintain his wife and children. He cannot be permitted to plead that he is

unable to maintain them due to financial constraints as long as he is capable of earning. *Moreover*, a judicial note can be taken that prices of essential commodities are escalating day by day. Therefore, it is very difficult for the respondents to survive without any maintenance to meet their daily needs.

13. It is worth noting that Section 125 of the Cr.PC. and Section 12 of the D. V. Act are social welfare provisions, which must be subjected to an extensive beneficial concern, and this understanding has been extended to maintenance. Similarly, it must be borne in mind that the right to maintenance under Section 125 of the Cr.PC. is not a benefit received by the wife and children, but rather the legal or moral duty the husband owes to maintain his wife and children. Undisputedly, the wife and children do not reside with the husband, and the husband does not pay them any maintenance; these facts are sufficient to grant maintenance to them.

14. Having considered the above discussion, I do not find any substance in the contention of the learned counsel for the petitioner that the learned Magistrate as well as the learned Sessions Court have erred in passing the impugned orders. On the contrary, it appears that the orders passed by the learned Magistrate as well as the learned Sessions Court are just and proper, and no interference is warranted in the exercise of revisional jurisdiction. The petitioner has failed to point out any illegality or perversity in the said orders.

15. As a result, the petitions, being bereft of merit, stand dismissed with costs of Rs. 10,000/-. The petitioner is directed to deposit the said costs before the learned Magistrate within eight (08) weeks from today. On deposit of the said costs, a sum of ₹ 3,000/- each shall be paid to respondent Nos.1 and 2, and the remaining amount of ₹ 4,000/- shall be transmitted to the Legal Services Authority, Shrirampur. In the event of failure to deposit the costs within the stipulated period, the learned Magistrate is requested to take appropriate steps to ensure compliance with this order.

16. The stay granted by this Court by an order dated 28th March 2025 stands vacated.

17. Needless to clarify, the petitioner is directed to deposit the entire arrears of amount, along with the costs of Rs. 10,000/- imposed by this Court, before the learned Magistrate, within eight (08) weeks from today; failing which, the learned Magistrate is requested to take appropriate steps to ensure compliance with this order.

18. The Rule is discharged.

19. In view of the discussions hereinabove, the Writ Petition No.419 of 2025 is also disposed of.

(ABHAY J. MANTRI, J.)