



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 125 OF 2025

Sudarshan Sureshrao Kondekar

..APPLICANT

VERSUS

Archana Sudarshan Kondekar

..RESPONDENT

....
Mr. S.B. Choudhari, Advocate for the applicant

Mr. S.V. Gundre, Advocate for the respondent

....

CORAM : ABHAY J. MANTRI, J.

DATE : 07th OCTOBER, 2025

ORAL JUDGMENT :

1. The applicant, the husband of the respondent and an advocate by profession, has preferred this revision application challenging the judgment and order dated 04th February, 2025, passed by the learned Judge of the Family Court, Latur, in Petition No. E-18 of 2022, whereby maintenance was granted to the respondent of Rs. 12,500/- per month from the date of the petition.

2. Heard learned counsel for the applicant and respondent and perused the impugned judgment and record.

3. At the outset, it appears that the respondent, being the wife of the applicant, filed an application for the grant of maintenance under Section 125 of the Code of Criminal Procedure against the applicant. The applicant appeared in the matter by filing a say/reply and thereby resisted the claim of the respondent. After considering the evidence on record, the learned Judge

has held that the applicant is liable to pay the respondent maintenance of Rs. 12,500/- per month. Hence, the applicant prefers this revision of the application.

4. It is pertinent to note that the applicant does not dispute his relationship with the respondent; she is living separately, and he has not provided maintenance to her. But he contended that the respondent is highly qualified, completed a B.A., takes private tuition, and earns more than Rs. 50,000/- per month. She is also an office bearer of various institutions and gets a monthly honorarium of Rs. 10,000/-. Therefore, he urged the dismissal of the said petition.

5. It further appears that, as per Section 9 of the Family Courts Act, the matter was sent for settlement to a marriage counsellor; however, the matter could not be settled between the parties. Then, pursuant to the point of determination, the respondent has examined herself and produced photocopies of the documents on record. To rebut the evidence of the respondent, the applicant has filed an affidavit in examination-in-chief, but he remained absent and did not undergo cross-examination. Therefore, the said affidavit was not taken into consideration. Though the applicant in his say alleged that the respondent has an income of Rs. 50,000/- per month, however, in paragraph no. 24 of the impugned judgment, the learned Judge has observed that in Annexure 'J' of assets and liabilities (Exh. 33 in the petition) has explicitly admitted that the petitioner (wife) does not earn

income. After considering the evidence on record, the learned Judge has held that the applicant is liable to pay the respondent maintenance of Rs. 12,500/- per month.

6. It further appears that by order dated 25th April, 2025, notice was issued to the respondent, and pursuant to the service of notice, Mr. Gundre, learned counsel, appeared in the matter. Similarly, by the said order, the applicant was directed to deposit 50% of the outstanding amount with the Court within three weeks. However, he failed to comply with the said order.

7. It is pertinent to note that the applicant is an advocate and well aware of the provisions of the law. He has twenty years of practice at the Dharashiv (Osmanabad) Court. Therefore, it cannot be said that he is not aware of the mandate of law. Despite the said fact, he willfully avoided appearing for cross-examination before the Family Court, nor adduced his evidence, thereby prolonging the matter before the Family Court, and by filing this application, he again tried to deprive the respondents of getting maintenance. Furthermore, he has not complied with the order passed by this Court nor deposited 50% of the outstanding amount within the stipulated time, as ordered by this Court. On that ground alone, the application is liable to be dismissed.

8. It is worth noting that the applicant does not dispute his relationship with the respondent. He further does not dispute that he is a practising advocate with twenty years of practice at Dharashiv (Osmanabad).

It further appears that the respondent resides separately from the applicant, and the applicant has not provided any maintenance amount to her towards her livelihood, though she is entitled to it. Also, the applicant failed to file an affidavit disclosing his assets and liabilities as per the mandate laid down in *Rajnesh Vs. Neha and Anr., 2021 ALL MR(Cri) 1172*. In fact, he was bound to file the affidavit disclosing his assets and liabilities before the trial Court, but non-filing of the same leads to a drawn adverse inference against him. Likewise, the applicant knows his income, and he has to state the same as per Section 106 of the Indian Evidence Act before the Family Court. The burden to prove his income is on the applicant himself and not on the respondent-wife, and therefore, I do not find substance in the contention of learned counsel for the applicant that the respondent failed to prove the applicant's income. As such, I do not find reason to disbelieve the respondent's testimony in that regard.

9. Learned counsel for the applicant vehemently contended that the learned Family Court has not considered the quantum of maintenance in its proper perspective and erred in granting maintenance of Rs. 12,500/- per month to the respondents. I do not find substance in his contention as learned Judge in paragraph nos. 25 to 27 and 29 has dealt with the applicant's income and held that the applicant has sufficient means of income to pay maintenance to the respondent. The learned Judge has also observed that the applicant owns some landed property in Dharashiv city, and he, being

a senior advocate with experience of more than twenty years, therefore, the learned Judge quantified his notional income @ Rs. 50,000/- per month. However, learned counsel for the applicant failed to point out that the findings recorded by the learned Judge are manifestly perverse or are a sanctuary of errors. On the other hand, it is apparent that after properly appreciating the evidence, the learned Judge has passed a well-reasoned order.

10. It is pertinent to note that the husband's obligation is to maintain his wife. He cannot be permitted to plead that he is unable to maintain her due to financial constraints as long as he is capable of earning. It is to be noted that the husband has to fulfil her day-to-day needs; he is duty-bound to provide a maintenance amount to her to live her life as per his status. In such an eventuality, it is necessary to grant maintenance to her. As observed above, the applicant has sufficient means to earn the money. *Besides*, a judicial note can be taken that there is a rise in the prices of essential commodities. Therefore, the maintenance amount granted to the respondent also appears to be too meagre to satisfy her daily needs.

11. It is pertinent to note that Section 125 of the Code of Criminal Procedure is a social welfare provision, 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 Code of Criminal Procedure is not a

benefit received by the wife but rather a legal and moral duty owed by the husband to maintain his wife. Undisputedly, the wife does not reside with the husband, and the husband does not pay them anything for her maintenance. This itself is sufficient to grant maintenance to her.

12. Thus, perusing the record and the impugned order, it appears that the applicant failed to maintain the respondent when he has sufficient means of income to maintain her. It further appears that the order passed by the learned Judge is just and proper, and the applicant failed to point out any perversity or illegality in the impugned judgment to interfere in the revisional jurisdiction. Therefore, I do not find substance in the contention of learned counsel for the applicant in that regard.

13. It is further evident that due to filing of the application by the applicant who is an advocate and aware of provisions of the law and issuance of notice to the respondent, the respondent has to appear in the matter by engaging an advocate, and therefore, in my view, the applicant is liable to pay costs to the respondents to the extent of Rs. 10,000/-.

14. As a result, the revision application being devoid of merit, stands dismissed subject to a cost of Rs. 10,000/- payable to the respondent. Inform the order to the learned Family Court.

15. In view of the above, the applicant is directed to deposit the entire arrears of maintenance amount and cost of Rs. 10,000/- before the learned Family Court within eight weeks from today, failing which it would be open

for the learned Family Court to take appropriate steps against the applicant for compliance with this order. Inform the order to the Family Court.

16. In view of the dismissal of the revision application, nothing survives in the criminal application; if any pending, the same stands disposed of accordingly.

(ABHAY J. MANTRI, J.)

SSD