



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 56 OF 2025

Amit Shriram Patnurkar

...Applicant

Versus

Amit Shriram Patnurkar & Anr

...Respondents

WITH
CRIMINAL APPLICATION NO. 1326 OF 2025
IN
CRIMINAL REVISION APPLICATION NO. 56 OF 2025

Mr. Swapnil Joshi i/b J. P. Legal Associates, Advocate for the Applicant.
Ms. Kirti R. Deshpande, Advocate for the Respondents.

CORAM : ABHAY J. MANTRI, J.
DATE : OCTOBER 06, 2025

ORAL JUDGMENT :

1. The applicant has prepared this revision challenging the judgment and order dated 26th July 2024, passed by the learned Judge, Family Court, Jalna, in Petition No. E-99/2019, which thereby granted maintenance of ₹ 10,000/- p.m. to each respondent from the date of the application.
2. Heard learned advocates for the applicant and the respondents at length. Perused the impugned judgment and record as well as the judgments relied upon by the learned advocates for both parties.
3. At the outset, it appears that respondent No.1, being the wife and respondent No.2, who is a son, have filed an application for the grant of

maintenance under Section 125 of the Code of Criminal Procedure, 1973 (for short the “*Cr. P. C.*”) against the applicant. *After the summons service, the applicant appeared before the court but did not file a say to the application; therefore, the application was proceeded without its say on 15th July 2019.* Similarly, it also appears that the petition was dismissed by order dated 30th July 2019, as respondent No.1 and her advocate were absent from 23rd November 2018. After that, the said petition was restored vide order dated 16th December 2021. After the restoration of the petition, notice was reissued to the applicant, and the said notice was duly served upon him. *Despite service of notice, he remained absent; hence, the matter was proceeded ex parte against him by order dated 08th June 2022.* It also appears that parties were referred for efforts of reconciliation in terms of Section 9 of the Family Court Act, 1984, but the reconciliation was not done, and therefore, the petition was proceeded on merit.

4. After considering the evidence on record, the learned Judge held that the applicant has sufficient means of income and his monthly salary is of ₹ 59,145/- per month. Despite the said, he failed to maintain the respondents and therefore, partly allowed the petition and directed the applicant to pay ₹ 10,000/- per month to each petitioner towards the maintenance allowance. Being aggrieved by the same, the applicant has preferred this application.

5. It is pertinent to note that the applicant does not dispute his relationship with the respondents. He further does not dispute that they

have been residing separately since 2013 and that the applicant has not provided any maintenance to them.

6. The learned advocate for the applicant vehemently contended that no opportunity was given to the applicant to contest the petition, and therefore, on the ground that he urged to remand the matter to the learned Family Court. However, perusing the impugned judgment, it appears that in paragraph No. 6, the learned Judge has categorically observed that parties were referred for efforts of reconciliation in terms of Section 9 of the Family Court Act. Still, reconciliation was not possible, and therefore, the matter proceeded further. It also appears from the order dated 15th July 2019, passed below Exhibit 1, that the applicant appeared before the Family Court on 23rd January 2019, but failed to file the say to the application; therefore, the application was proceeded without say. Similarly, after restoration of the petition, notice was issued to the applicant again, and the said notice was duly served upon the applicant. Despite the service of notice, he remained absent and therefore, again by order dated 08th June 2022, the matter was proceeded *ex parte* against the applicant. The said conduct of the applicant itself indicates that, despite being given opportunities twice, the applicant failed to file his say or appear in the Court to contest the matter. Therefore, it cannot be said that no opportunity was granted to him. *On the contrary*, it seems that despite being granted an opportunity, the applicant willfully neglected to attend the proceedings/Court and thereby tried to protract the

matter. As such, I do not find substance in the contention of the learned advocate for the applicant that no opportunity was granted to the applicant.

7. The learned advocate for the applicant also pointed out that the order of this Court in *Shaikh Imranoddin Shaikh Hafijoddin V. Saba w/o Imranoddin Shaikh and another, in Cri. Rev. Appli. 192/2022*, and submitted that this Court, after considering the judgment in *Rajnesh vs. Neha and Ors.*, remanded the matter to the Family Court for granting an opportunity to the applicant therein. However, considering the intention and object of the legislature as well as the purposive interpretation of Section 125 of the Cr. P. C. or having considered the conduct of the applicant, despite granting the opportunity twice, failing to file the say or contest the matter, the observations made in the said decision are hardly any assistance to him in support of his submissions.

8. The second limb of the argument of the learned advocate for the applicant is that the learned Trial Court has not recorded the reasons as to why it has granted maintenance from the date of application instead of from the date of the order. To buttress his submissions, he relied on the judgments in *Jaiminiben Hirenghai Vyas and Another vs. Hirenghai Rameshchandra Vyas and another, 2015 AIR(SC) 300* and *Bhuwan Mohan Singh Vs. Meena and Others, 2014 AIR(SC) 2875* of the Hon'ble Apex Court, argued that the learned Judge has to record a reason in support of his order for granting or refusing the maintenance from the date of the application or order. Therefore, he

urged that passing the impugned order without recording reasons by a learned Judge for awarding maintenance from the date of the application is contrary to the mandate laid down in these decisions and Section 125 of the CrPC.

9. As against learned advocate for the respondents strenuously argued that the Hon'ble Apex Court in *Rajnish vs. Neha and Ors.*, after considering various decisions of the High Courts and Apex Court has categorically held that “*maintenance in all cases will be awarded from the date of the filing of the application for maintenance, as held in Part B-IV in the judgment*”, and accordingly directed to all the concerned Courts to follow the said directions.

10. Having heard rival contentions of the learned Advocates for the parties, the short question arises “*from which date the husband is liable to pay maintenance to the wife and children, whether from the date of the application or from the date of the order*”.

11. In *Jaiminiben Hirenghai Vyas* and *Bhuwan Mohan Singh* (Supra), the Hon'ble Apex Court has categorically held that “*the Magistrate can grant maintenance from the date of application or order but he has to record reasons for granting the maintenance from the date of order or from the date of application*” and as per the mandate in those judgments, the learned Judge has to record the reasons for granting maintenance from the date of the application or order. However, in *Rajnish vs. Neha and Ors.*, the Hon'ble Apex Court, after considering the various decisions of the High Courts as

well as the Apex Court, dealt with the question in dispute in paragraphs 71 to 74, 88 to 91, and paragraph No.102, and issued directions to all the Courts “*to bring about uniformity and consistency in the orders and categorically held that in all cases, the maintenance will be awarded from the date of filing of the application for maintenance.*” In *Rajnish vs. Neha and Ors.*, the Hon’ble Apex Court considered the intention of the legislature while enacting the provisions and, therefore, held that from the date of application, the wife was entitled to maintenance.

12. In paragraph No.91 of the judgment, the Hon’ble Apex Court also observed that “*the rationale of granting maintenance from the date of the application finds its roots in the object of enacting maintenance legislations, so as to enable the wife to overcome the financial crunch which occurs on separation from the husband.* Financial constraints of a dependent spouse hamper their capacity to be effectively represented before the Court. *Therefore, in order to prevent a dependent from being reduced to destitution, the Hon’ble Apex Court held that it is necessary that maintenance be awarded from the date on which the application for maintenance is filed before the concerned Court.*

13. It is further worth noting that it is a settled position of law that it is an obligation of the husband to maintain his wife and children, who cannot be permitted to plead that he is unable to maintain them due to financial constraints, as long as he is capable of earning. Similarly, the purposive interpretation of Section 125 of Cr.P.C. needs to be taken into consideration while dealing with the application of a destitute wife, helpless

children or parents under this provision. The purpose is to achieve social justice, which is the constitutional vision, enshrined in the Preamble of the Constitution of India.

14. Furthermore, Section 125 of Cr. P. C. is a social welfare provision, which must be subjected to an extensive beneficial concern, and this understanding has been extended to maintenance. Likewise, it must be borne in mind that the right to maintenance under Section 125 of the CrPC is not a benefit by the wife or children but rather a legal and moral duty owed by the husband to maintain his wife and children. Undisputedly, the wife and son have been residing separately since 2013, and the applicant has not provided any maintenance to them. The said ground itself is sufficient to grant maintenance to them. Besides merely filing the proceedings by the husband for seeking divorce, as well as filing the application by the wife and children for maintenance, this itself indicates that the applicant has not been maintaining them when he had sufficient means of income.

15. As observed above, it is the bounden duty of the husband to pay maintenance to his wife and children, and since 2013, he has not paid the same to them. Therefore, in my view, in order to prevent respondents from being reduced to destitution, it is necessary that maintenance be awarded from the date on which the application for maintenance is filed before the concerned Court and not from the date of the order.

16. To sum up the above discussion, it reveals that the mandate laid down in *Rajnesh vs. Neha and Ors.* is applicable in the case at hand. However, the dictum laid down in *Jaiminiben Hirenghai Vyas* and *Bhuwan Mohan Singh* (Supra) is hardly of any assistance to the applicant in support of his contentions. As such, I hold that the respondents are entitled to receive maintenance from the date of application and not from the date of the order. Consequently, I answered the said point accordingly.

17. The further argument advanced by the learned advocate for the applicant is that twice the matter was dismissed for default. Therefore, the respondents are not entitled to get maintenance for the said period. However, from the record, he failed to point out dismissal of the application twice, but he has pointed out that it was dismissed only once, as the respondent and her advocate were absent from 23rd November 2018 till 30th July 2021; therefore, it was dismissed in default. Even assuming that once the said period application was dismissed in default, however, it is pertinent to note that the application was filed on 05th January 2017. Undisputedly the applicant has not paid maintenance to respondents from 2013 i.e. much prior to filing of the application when as per the settled position of law the applicant is bound to maintain his wife and children, he failed to maintain, and therefore, in my view none payment of maintenance from the date of the application would certainly defeat the claim for maintenance of the respondents. Furthermore, the order of the dismissal of the application for

some period and restoration of the same would amount to continuation of the proceedings from the date of the application. As the dismissal order will be merged into the final order. Besides, undisputedly, no maintenance was provided for the said period when the husband is duty-bound to maintain his wife and children. Apart from this, it is beneficial legislation, and it is a settled position of law that the husband is duty-bound to maintain his wife and children. Hence, I do not find substance in his contention that the respondents are not entitled to claim maintenance when the application was dismissed in default till restoration. As a consequence, his submission cannot be taken into consideration.

18. The next question that arises before the Court is “*how much maintenance the respondents are entitled to*”. On perusal of the impugned judgment and record, it appears that the applicant failed to file a say and contest the petition; similarly, the applicant failed to file the affidavit disclosing his assets and liabilities before the Court, as per the mandate in ***Rajnish vs. Neha and Ors.***, he was duty-bound to file the same. Non-filing of the same leads to an adverse inference being drawn against him in that regard. However, it has come on record that the respondent in her testimony categorically deposed that the applicant has an income of ₹ 59,145/- per month, no reason to disbelieve her testimony, and 25% of his salary would be just and proper to be awarded as maintenance allowance to the applicants, which comes to ₹ 15,000/- per month. Therefore, in my view, it

would be appropriate to modify the maintenance amount awarded by the learned Judge to the respondents. The learned Judge has granted maintenance of ₹ 10,000/- per month each to the respondents, i.e. ₹ 20,000/- in total and therefore, in my view, the said amount needs to be modified to the extent of ₹ 15,000/-, i.e. ₹ 7,500/- per month to each respondent from the date of filing of the application.

19. It is further made clear that, as per the mandate in *Rakhi Sadhukhan V Raja Sadhukhan, 2025 SCC Online SC 1259*, there shall be an increase of 5% in the maintenance amount after every two years. As such, in my view, it would be appropriate to modify the impugned judgment and order in that regard.

20. As a result, the application is partly allowed and the impugned judgment and order dated 26th July 2024, passed by the learned Judge, Family Court, Jalna, in Petition No. E-99/2019 is hereby modified to the extent of clause (ii) of the judgment, i.e. *“the applicant herein/Original respondent shall pay maintenance of ₹ 7,500/- per month each to the respondents towards the maintenance allowance instead of Rs. 10,000/- p.m. each, from the date of the application, i.e. 05th January 2017.”*

21. The applicant is further directed to deposit the entire arrears of maintenance amount before the Family Court, Jalna, within eight (08) weeks in two equal instalments by adjusting the amount he has already paid to the respondents.

22. Consequently, the application is partly allowed in the above terms and disposed of.

23. In view of the above, the application for stay is disposed of.

24. It is needless to clarify that the execution proceedings be stayed for a further period of four (04) weeks. If the applicant fails to deposit the 50% arrears in the Trial Court, then the respondents are entitled to execute the award. On depositing the 50% arrears, the stay order will be extended for a further period of four (04) weeks, i.e., till depositing the remaining 50% of the maintenance amount.

(ABHAY J. MANTRI, J.)