



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 15 OF 2021

1. Jayashree Ravindra Rathod

Age:- 33 years Occu:- Nil

2. Sai s/o Ravindra Rathod, 1

Age:- 9 years, Occu:- Education

Being minor under the guardian of the Applicant no. 1

Both R/o N-9, Pratapgadnagar, CIDCO, Aurangabad

Presently residing at Deolai Parisar Mauli Nagar,

Beed Bypass road Aurangabad.

...Applicants

Versus

Ravindra Ramu Rathod

...Respondent

WITH

CRIMINAL APPLICATION NO. 1670 OF 2024

IN

CRIMINAL REVISION APPLICATION NO. 119 OF 2020

WITH

CRIMINAL REVISION APPLICATION NO. 119 OF 2020

Mr. Jadhav Chetan T., Advocate appointed through the Legal Aid Committee.

Mr. Surve Hemant and Surve Kshitij H., Advocate for the Applicants.

Mr. Rahul J. Joshi, Advocate for Respondent

CORAM : ABHAY J. MANTRI, J.

DATE : OCTOBER 09, 2025

ORAL JUDGMENT :

1. The learned advocate, Mr. Hemant Surve, submitted that he is appearing for applicants in Criminal Revision Application No.15 of 2021 and for respondents in Criminal Revision Application No.119 of 2020.

2. In view of the above, the learned advocate, Mr. Jadhav, is discharged on behalf of the original applicants.

3. The husband – respondent in Criminal Miscellaneous Application No.18 of 2016, being aggrieved by the judgment and order dated 03rd November 2020, passed by the learned Judge, Family Court, Aurangabad, whereby the amount of maintenance from ₹ 2,500/- and ₹ 1,500/- per month granted to the applicants was enhanced to ₹ 6,000/- and ₹ 5,000/- per month respectively.

4. Similarly, the original applicants, i.e., the wife and son, have challenged the same order, i.e., order dated 03rd November 2020, passed by the learned Judge, Family Court, Aurangabad in Criminal Miscellaneous Application No.18 of 2016, contending that the learned Judge, Family Court, has granted a lesser amount to the applicants.

5. It is pertinent to note that the husband, i.e. original respondent, and the original applicants, i.e., the wife and the son in Criminal Miscellaneous Application No.18 of 2016, being aggrieved by the judgment and order dated 03rd November 2020, passed by the learned Judge, Family Court, Aurangabad, have preferred these revision applications. The applicants, i.e. wife and son, preferred Criminal Revision Application No.15 of 2021, and the respondent, husband, has preferred Criminal Revision Application No.119 of 2020.

6. Heard learned advocate for both parties at length and perused the impugned judgment and order as well as the record pointed out by the learned advocate for the parties, have also gone through the judgments relied on by the learned advocate for the husband, original respondent. For the sake of convenience, I would like to refer to the parties as per their designations in Criminal Miscellaneous Application No.18 of 2016.

7. At the outset, it appears that in the year 2012, the applicants have filed application for grant of maintenance against the respondent, after considering the entire evidence before the Court, learned Judge of the Family Court vide judgment and order dated 23rd October 2013, partly allowed the said application and granted maintenance amount of ₹ 2,500/- and ₹ 1,500/- per month to the applicant Nos.1 and 2 respectively. It is pertinent to note that none of the parties have challenged the said order, which indicates that they have no grievance about the findings recorded by the learned Judge in the said judgment and order.

8. It further appears that after a lapse of 3 years, the applicants have filed an application under Section 127 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "*Cr. P. C.*") for alteration in allowances as 3 years have lapsed after the passing of the order. There is an escalation in prices of essential commodities. In the said application, the respondent filed his say/reply. Both parties have led their evidence. After considering evidence, the learned Judge, Family Court, Aurangabad, has

held that the application was partly allowed. The respondent was directed to pay maintenance of ₹ 6,000/- per month to applicant No.1 and ₹ 5,000/- per month to applicant No.2 from the date of the application, until applicant No.2 attained the majority. Being aggrieved by the said order, both parties prefer these revisions.

9. The learned advocate for the respondent–husband vehemently contended that the applicants have not stated in the application that there is a change in circumstances, neither adduced any evidence in that regard, nor shown that the income of the respondent has increased. On the contrary, applicant No. 1 holds a D. Pharmacy degree (page No. 28) and is earning an amount. Therefore, the applicants are not entitled to an enhancement of the maintenance amount.

10. To buttress his submissions, he has relied upon the judgment in *Jyoti @ Gayatri Vs. Rohit Sharma @ Santosh Sharma* pointed out paragraphs Nos. 20, 21 and 22 and the judgment of the Hon'ble Apex Court in *Mohd. Abdul Samad Vs. State of Telangana and another*, and pointed out the head note 'C' of the said judgment and paragraph No. 65.

11. On the other hand, learned advocate for the applicants strenuously argued that the applicants have specifically stated that due to lapse of time there is escalation of the prices in the essential commodities, as such, they are entitled to get enhanced maintenance amount, also the respondent has purchased land and constructed hospital on the said land

itself indicate that he has sufficient means of income to enhance maintenance the applicant No.2 is studying in class 4 and his fees was ₹ 90,000/-. He has drawn my attention to page No. 149 of his application, and submitted that the learned Judge, Family Court, has not considered those facts and erred in granting a meagre amount to them. Hence, he urged for allowing his application by enhancing the maintenance.

12. Having heard the learned advocate for the parties and perusal of the impugned judgment and record, it is evident that neither party has adduced any evidence or material on record to show that the applicant No.1 has sufficient means of earning or the respondent's income has been increased. Still, they have only contended that the respondent has purchased land in his mother's name and constructed the hospital, but no cogent evidence was brought on record before the Court. Similarly, the respondent alleged that the applicant had purchased the land on 19th November 2020, i.e. after passing of the judgment; therefore, I do not find substance in his contention while considering the challenge of the findings of the impugned judgment and order, as that was passed prior to the purchase of the land.

13. The learned advocate for the respondent submitted that before this Court he has not pointed out the said fact, however, it is not necessary to consider at this stage, because both the parties are challenging the impugned judgment under revision and the Court has to deal with the

findings recorded in the said judgment and what has happens after passing of the judgment is not relevant, therefore, I do not find substance in his contention in that regard.

14. Perused the impugned judgment and order, it appears that the learned Judge of the Family Court in paragraphs Nos. 12 to 16 dealt with the contentions of the applicants and the respondent and categorically observed that the application was allowed in the year 2013, and the application was filed after a lapse of 3 years. Due to the rise in prices of essential commodities as well as the fact that the applicant No.2 is taking the education, the applicants need the money to satisfy their daily needs and the education of applicant No.2. On the contrary, the respondent is working as an assistant Doctor and constructed a hospital. This indicates that he has sufficient means of income. Thus, it appears that the learned Judge has considered the submission of the applicants and respondent and rightly held that there is a change in the circumstances, as the prices of the essential commodities have risen. Applicant No.2 is taking the education course. However, both parties failed to point out that the order passed by the learned Judge is manifestly perverse or a sanctuary of errors. Perused the judgment relied upon by the learned advocate for the respondent; however, it seems that the facts in those cases and the facts in the case in hand are distinct, and therefore, the observations made in those judgments are hardly of any assistance to him.

15. I have gone through the application filed by the applicants. In paragraphs Nos. 5 and 6, the applicants categorically stated the change in circumstances for the grant of enhancement of the amount; therefore, it cannot be said that the applicants have not made out the case for the grant of enhancement of the maintenance amount.

16. It is pertinent to note that it is the 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, judicial note can be taken that there is an escalation in the prices of essential commodities. Therefore, it is also very difficult for the applicants to survive without any maintenance to satisfy their daily needs and their son's education.

17. It is worth noting that Section 125 of the 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. Similarly, it must be borne in mind that the right to maintenance under Section 125 and enhancement of the same U/s 127 of the Cr. P.C. is not a benefit received by the wife, but rather the legal or moral duty owed by the husband to maintain his wife and son. Undisputably, the wife and son do not reside with the husband, and the husband does not pay them to live their life as per his living standard; this itself is sufficient to grant enhanced maintenance to them.

18. It also appears that the applicant No.2 is taking education in the school/college, and therefore, considering the said fact, in my view, it would be appropriate to enhance the maintenance granted to the applicant No.2; however, applicant No.1 failed to point out that the order passed against applicant No.1 is perverse. On the other hand, the evidence on record denotes that the respondent is working as an assistant doctor and has constructed a hospital. This indicates that he has sufficient means of income. That being so, in my opinion, the application filed by the applicants needs to be partly allowed to enhance the maintenance to the applicant No.2, the son.

19. Considering the above discussions and the facts of the case at hand, in my opinion, the observations made in the above-relied judgments are hardly of any assistance to the respondent in support of his submission, as the facts in the case at hand are distinct from the above-cited judgments.

20. Thus, it appears that the respondent failed to point out that the impugned judgment and order are illegal or perverse or a sanctuary of error, to interfere with it in the revisional jurisdiction. Consequently, the Criminal Revision Application No.119 of 2020 filed by the respondent/husband is being bereft of merit and stands dismissed with costs of ₹ 10,000/-. The respondent husband is directed to deposit the said cost before the Family Court, Aurangabad, within five weeks from today.

21. However, the Criminal Revision Application No.15 of 2021 filed by the applicants is partly allowed to the extent of applicant No.2, the son. As a sequel, the judgment and order dated 03rd November 2020, passed by the learned Judge, Family Court, Aurangabad, is hereby modified to the extent that applicant No.2 is entitled to enhanced maintenance from ₹ 5,000/- to ₹ 10,000/- from the respondent from the date of the application.

22. In view of the above, both revision applications are disposed of in the above terms. The criminal application, if any pending, stands disposed of.

(ABHAY J. MANTRI, J.)