



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL REVISION APPLICATION NO.150 OF 2025
WITH
CRIMINAL APPLICATION NO.1497 OF 2025**

Sayyad Javed Sayyad Rasul
Age-30 years, Occu-Labour,
R/o. Mahemoodpura, Wankhedenagar,
Near Patel Kirana Stores,
Hudco Corner, Aurangabad

...APPLICANT
[Ori. Respondent]

VERSUS

1. Heena W/o. Javed Sayyad,
Age-26 years, Occu-Ladies Tailor
R/o. Rahemaniya Colony,
Galli No. 3, Aurangabad

...RESPONDENTS
[Ori. Applicants]

2. Haniya D/o. Javed Sayyad,
Age-3 ½ years minor
U/G of respondent No. 1

Mr. Shakil U. Shaikh, Advocate for the applicant

CORAM : ABHAY J. MANTRI, J.

DATE : 19th SEPTEMBER, 2025

ORAL JUDGMENT :

1. As Mr. Shakil U. Shaikh is appearing on behalf of the applicant, the appearance of Mr. Quadri Tabrezuddin Rahimuddin, learned advocate, stands discharged from the proceeding.

2. The applicant has preferred this application challenging the judgment and order dated 08-10-2024 passed by the learned Judge, Family Court, Aurangabad, in Petition No. E-78/2020,

whereby maintenance of Rs. 5000/- and Rs. 3000/- was granted to the respondents respectively from the date of the petition.

3. At the outset, it appears that the respondents, being the wife and daughter of the applicant, filed an application for the grant of maintenance under Section 125 of the Cr. P. C. against the applicant. The learned Judge, after considering the evidence on record, held that the applicant is liable to pay maintenance of Rs. 5,000/- and Rs. 3000/- per month to the respondents from the date of the application and accordingly passed the impugned order.

4. It is pertinent to note that the applicant is not disputing that respondent No.1 is his wife and respondent No. 2 is his daughter. The applicant and respondent No.1 cohabited till 25-08-2020. On that day, the applicant demanded money from respondent No. 1, beat her, and threatened to kill her. Therefore, she lodged the report against him at Begampura Police Station and also filed a complaint before the Women Grievance Redressal Cell, Aurangabad. The applicant possessed several landed properties and also purchased gold ornaments. He is doing the property dealing business, earning Rs. 50,000/- per month and Rs. 2 lakhs per annum from the irrigated land. Similarly, he received rent of Rs. 30,000/- per month. Therefore, the respondents have filed the application for claiming maintenance of Rs. 25,000/- per month for respondent No.1 and Rs.

5000/- towards rent.

5. The applicant denied the contention in the petition in toto and contended that respondent No. 1 is earning Rs. 8,000/- to Rs. 10,000/- per month from tailoring. He requested her to cohabit with him, but she refused, so he urged for dismissal of the original petition.

6. The learned advocate for the applicant has vehemently contended that the learned Family Court has not considered the applicant's earning capacity in its proper perspective and erred in awarding maintenance. The applicant is doing labour work, and therefore, the amount of maintenance @ Rs. 8,000/- granted is exorbitant, and the applicant is unable to pay the same to the respondents. Consequently, he urged the modification of the order.

7. During the argument, he also tendered an order dated 02-04-2025, passed by this court in Criminal Writ Petition No. 451/2025. He submitted that this court has directed the applicant to deposit Rs. 6,000/- per month in aggregate in the trial court until further orders. He further submitted that he has complied with the order and, therefore, canvassed that the impugned order is required to be modified.

8. On perusal of the impugned judgment, it is evident that the applicant is a PhD holder and was working in the Maulana Azad

College. Now he is doing the work of property dealing, selling and purchasing the old vehicle, and getting an income of Rs. 15,000/-. It also appears that he possessed 25-R irrigated land in Gut No.237, Niklaj, Tq. Badnapur, Dist. Beed. He also has a storied building, and the ground floor and first floor have been given on rent and are receiving rent of Rs. 30,000/- per month. Except for a mere denial in reply, the applicant has not adduced any evidence to rebut the evidence adduced by respondent No.1. The evidence above itself indicates that the applicant has sufficient means of income.

9. Having considered the said facts, the learned Judge, in para No. 20, discussed those facts in detail. After considering the maintenance granted under Section 12 of the DV Act, the learned Judge granted maintenance to the respondents.

10. Besides, the applicant has failed to adduce cogent and reliable evidence that he is doing labour work. Therefore, I do not find any substance in that regard. On the other hand, a judicial note can be taken that the applicant, being a PhD holder, is able-bodied and capable of earning. The applicant has not disputed that he is a PhD holder.

11. *Moreover*, the learned advocate for the applicant failed to point out that respondent No. 1 has sufficient means of income or that the applicant does not have sufficient means of income to

maintain the respondents. On the contrary, it appears that the applicant holds a three-story building, agricultural land in Gut No. 237, and a business dealing with property and selling and purchasing old vehicles, which shows that the applicant has sufficient income to maintain the respondents.

12. On perusal of the impugned judgment and order, it appears that in Para No. 20, the learned Judge has discussed in detail the income of the applicant and held that the applicant has sufficient means to pay the maintenance to the respondents as stated above. In fact, it appears that the order of the learned Judge is based on the evidence on record. However, the applicant failed to point out that he does not have sufficient means to maintain the respondents or findings given by the learned Judge are illegal or perverse to interfere in the revisional jurisdiction.

13. 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 and daughter but rather a legal and moral duty the husband owes to maintain his wife and daughter. Undoubtedly, the wife and daughter do not reside

with the husband, and the husband does not pay them anything for their maintenance. This itself is sufficient to grant maintenance to them.

14. Furthermore, it is needless to say that the order of the learned judge is not manifestly perverse. There is nothing perceptible that order is a sanctuary of errors. In fact, the order is based on the proper appreciation of evidence. It is pertinent to note that it is the applicant-husband's obligation to maintain his wife and children. He cannot 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 are rises in essential commodities and therefore, the maintenance amount granted to the respondents appears to be too meagre to satisfy their daily needs. Thus, on perusal of the record and impugned order, it seems that the applicant failed to maintain the respondents. Consequently, the order passed by the learned Judge is just and proper. Hence, I do not find any substance in the contention of the learned advocate for the applicant that the learned Judge has erred in determining the maintenance amount. Therefore, no interference is required in the impugned judgment and order dated 08-10-2024 in revisional jurisdiction. The criminal revision application being devoid of merits, stands dismissed. No order as to costs.

15. Inform the learned Judge, Family Court, Aurangabad.
16. In view of the dismissal of the criminal revision application, the criminal application, if any, stands disposed of.

[ABHAY J. MANTRI, J.]

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