



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO.45 OF 2025
WITH
CRIMINAL APPLICATION NO. 1939 OF 2024
IN REVN/45/2025

Aarifali Sayyad S/o. Jahurali Sayyad **...APPLICANT**
(Name on Aadhar Card- Aarif Ali Juhur Ali) [Ori. Respondent]
Age-39 years, Occu-Labourer
R/o. Usmania Park, Bava Apartment,
1st Floor, Jalgaon, Tq. & Dist. Jalgaon

VERSUS

Jahara W/o. Aarifali Sayyad **...RESPONDENT**
Age-35 years, Occu-Household Work, [Ori. Applicant]
C/o. Gayasoddin Riyasoddin Shaikh,
Near Dr. Qureshi Hospital, Azaad Nagar
Dhule Tq. & Dist. Dhule

Mr. V. B. Kulkarni, Advocate for the applicant
Ms Pratibha Suryawanshi, Advocate for the respondent

CORAM : ABHAY J. MANTRI, J.

DATE : 19th SEPTEMBER, 2025

ORAL JUDGMENT :

1. The applicant is challenging the judgment and order dated 17-09-2021 passed by the learned Judge, Family Court, Dhule, in Petition No. E-117/2019, thereby granted maintenance to the respondents of Rs. 3,500/- per month from the date of application.

2. 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 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. 3,500/- per month to the respondent from the date of the application and accordingly passed the impugned order.

3. It is pertinent to note that the learned advocate for the applicant has not disputed the relationship of the applicant with the respondent. However, he argued that the order impugned was passed ex parte, without giving an opportunity, and therefore, the matter should be remanded to the learned trial court. He is ready to cohabit with the respondent. But, she is not willing to cohabit. Therefore, he urged the remanding of the matter. However, on perusal of the judgment, it appears that in para No. 7 of the judgment, the learned Judge has observed that he remained absent despite service of notice to the applicant. Therefore, the matter was proceeded ex parte. As such, I do not find substance in his contention that, without service of the notice on the applicant, the ex parte order was passed. On the contrary, it seems that the court notice was duly served on the applicant. However, he chose to remain absent for the reasons best known to him. Therefore, I do not find substance in his contention to remand the matter back on the said ground.

4. Apart from that, on perusal of the record, it appears that the learned Judge has granted maintenance of an amount of Rs. 3,500/- per month only to the respondent. The learned Judge in para Nos. 16 to 21 discussed in detail that the applicant has sufficient means to pay the maintenance to the respondent and rightly granted the maintenance of Rs . 3,500/- per month. *Moreover*, it appears that the order passed by the learned Judge, Family Court, is based on a proper appreciation of the evidence on record. However, the applicant failed to point out that he does not have sufficient means to maintain the respondent or that the findings recorded by the learned Judge are illegal or perverse to interfere in the revisional jurisdiction.

5. Moreover, it is needless to say that the order of the learned Judge is not manifestly perverse. There is nothing perceptible that the order is a sanctuary of errors. In fact, the order is based on proper appreciation of evidence. It is pertinent to note that the applicant-husband maintains the respondent. He cannot be permitted to plead that he is unable to maintain her due to financial constraint as long as he is capable of earning. Furthermore, judicial note can be taken that there are rises in the prices of the essential commodities; therefore, the maintenance amount granted to the respondents appears to be too meagre to satisfy their daily needs.

6. 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 her anything for her maintenance. This itself is sufficient to grant maintenance to her.

7. Thus, on perusal of the record and the impugned order, it seems that the applicant has failed to maintain the respondent when he has sufficient means to maintain her. Consequently, it is apparent that the judgment and order passed by the learned Judge are just and proper. As such, I do not find substance in the revision application to interfere with the impugned judgment and order dated 17-09-2021, in the revisional jurisdiction. As a result, the criminal revision application, being devoid of merits, stands dismissed. No order as to costs.

8. Inform the learned Judge, Family Court, Dhule.

9. Learned advocate for the respondent is appointed through the Legal Services Authority. Hence, her fees are to be quantified as per the rules of the High Court Legal Aid Services Sub-

Committee.

10. In view of the dismissal of the criminal revision application, the pending criminal application stands disposed of.

[ABHAY J. MANTRI, J.]

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