



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

912 CRIMINAL REVISION APPLICATION NO. 161 OF 2025

TANWIR AHMED KHAN PATHAN SARWAR KHAN PATHAN

....Applicant

VERSUS

LAIBA TANWIR AHMED KHAN PATHAN

.....Respondent

Mr. A. V. Lavte, Advocate for the applicant

Mr. Shaik Shoyab, Advocate for the respondent

CORAM : ABHAY J. MANTRI, J.

DATE : 30th SEPTEMBER, 2025

PER COURT :

1. Heard the learned advocate for the applicant. Perused the impugned judgment and record.

2. The applicant has preferred this revision challenging the judgment and order dated 13-03-2025 passed by the learned Judge, Family Court, Parbhani, in Petition No. E-238/2020, thereby allowed the petition and granted the respondent maintenance of Rs. 15,000/- per month from the date of the petition.

3. At the outset, it appears that the respondent, being a minor daughter of the applicant through her maternal grandmother, has filed an application for the grant of maintenance under Section 125 (1)(b) of the Cr. P. C. against the applicant. After considering the

evidence on record, the learned Judge held that the applicant is liable to pay maintenance of Rs. 15,000/- per month to the respondent-daughter and accordingly passed the impugned order.

4. It is pertinent to note that the applicant is not disputing that the respondent is his daughter. His only contention is that the mother of the respondent-daughter is a teacher, and she also draws a salary of around Rs. 60,000/- per month, so she is also liable to pay the maintenance to the respondent-daughter.

5. He further argued that, based on the observations made in the judgment of *Padmja Sharma v. Ratan Lal Sharma, AIR 2000 SC 1398*, the mother is also liable to pay the maintenance to the child. This Court, after considering the observation in the said judgment, by order dated 08th May, 2025, granted liberty to the applicant to add the mother as a party respondent to the petition. However, on query, he fairly submitted that the mother was not a party before the Trial Court. The application was filed before the Trial Court to implead her as a party to the application; however, the said application was rejected, and he has not challenged the said order to date. That being so, in my view, the said order has attained finality. So, the question does not arise to add her as a party to the petition. Apart from this, the applicant herein has no power to add the mother as a party to the petition, as she was not a party to the application on which the

impugned order was passed. Therefore, I do not find substance in his contention to add the mother as a party respondent. It is the prerogative of the original applicant to file an application seeking maintenance against any of the parents. Accordingly, the original applicant-daughter has filed the application against the father only. Therefore, it cannot be said that the mother is also liable to pay her maintenance in the absence of filing any application against the mother by the original applicant. Likewise, facts in *Padmja Sharma* and the case at hand are distinct; therefore, the observation made therein is hardly any assistance to the applicant in support of his contention. As such, I do not find any substance in the argument of learned counsel for the applicant in that regard.

6. On perusal of the impugned judgment, it appears that the learned Magistrate in para 17 has dealt with the said issue and after considering the salary slips for the months of July to September 2022 of the applicant at Exh. 71 to 73, the learned Judge held that the applicant had a gross salary of Rs. 1,47,240/-. After statutory deduction, he would get a salary of Rs. 97,549/-; in August 2022, his salary was Rs. 1,15,917/-. Therefore, the learned Magistrate has granted Rs. 15,000/- pm maintenance.

7. It is pertinent to note that, as per section 125 (1)(b) of the Cr. P. C., the applicant is bound to pay the maintenance to a

legitimate or illegitimate child. He cannot escape saying that he is not liable to pay maintenance to the children when he has sufficient means of income to maintain them. It is pertinent to note that it is the obligation of the father to maintain his children. He cannot be permitted to plead that he is not able to maintain, as her mother is also earning money.

8. *Moreover*, it is the right of the children/daughter to claim maintenance from the father or mother having sufficient means of income. It is her/his choice to claim the amount of maintenance from one of the parents. Therefore, I do not find any substance in the contention of the learned advocate for the applicant in that regard that the mother is also liable to pay the maintenance to the respondent.

9. It is pertinent to note that section 125 of the Cr. P. C. is a social welfare provision, which must be subjected to an extensive beneficial concern, and this misunderstanding has been extended to maintenance. Similarly, it must be borne in mind that the right to maintenance u/s 125 of Cr. P. C. is not a benefit received by the daughter, but a legal and moral duty owed by the father to maintain his daughter. It appears that the learned Magistrate, after considering the evidence on record, has passed the impugned order. The order of the learned Magistrate is well-reasoned, and no fault is found in the

said order.

10. On the other hand, the learned advocate for the applicant failed to point out that said order is manifestly perverse. There is nothing perceptible that shows that the order is improper. On the contrary, it appears that the order passed by the learned Magistrate is well-reasoned. Hence, I do not find any substance in the contention of the learned advocate for the applicant to interfere in it in the revisional jurisdiction. As such, the criminal revision application being bereft of merits, stands dismissed. No order as to cost.

[ABHAY J. MANTRI, J.]

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