



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 207 OF 2022

Rajendra M. Bodkhe,
Age: 53 years, Occupation: Service,
R/o: Rajuri, Taluka Rahata,
Dist. Ahmednagar

...Applicant

Versus

1. Sau. Sangita Rajendra Bodkhe,
Age: 49 years, Occupation: Teacher;
 2. Ujjwal Rajendra Bodkhe,
Age: 23 years, Occupation: Education;
Respondent Nos. 1 and 2
R/o: C/o Deepak Kashinath Nalge,
R/o: Chincholi, Taluka Rahuri,
District: Ahmednagar.
 3. Vijay Maruti Bodkhe,
Age: 57 years, Occupation: Service,
 4. Jyoti Vijay Bodkhe,
Age: 50 years, Occupation: Household,
 5. Santosh Bhausahab Gore,
Age: 42 years, Occupation: Business,
Respondent Nos. 3, 4 and 5:
R/o Rajuri, Taluka Rahata,
District: Ahmednagar.
 6. The State of Maharashtra
- ...Respondents

- Mr. A. D. Sonkawade h/f Mr. K. B. Jadhav, Advocate for the Applicant
- Mr. L. V. Sangit h/f Mrs. M. L. Sangit, Advocate for Respondent Nos. 1 & 2
- Mr. P. P. Dawalkar, APP for the Respondent No.6/State

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : DECEMBER 03, 2025
PRONOUNCED ON : DECEMBER 11, 2025

JUDGMENT :

1. In this revision, there is challenge to judgment and order dated 24.03.2022 passed by learned Additional Sessions Judge, in Criminal Appeal No. 169/2016 arising out of judgment and order dated 21.07.2016 in Criminal Misc. Application No. 424/2010 which was at the instance of wife and son seeking various reliefs by invoking provision under Protection of Women from Domestic Violence Act, 2005 (D.V. Act).

2. In nutshell, present respondent wife filed Criminal Misc. Application No. 424/2010 alleging maltreatment, domestic violence to her. She also alleged that she was put up with her parents' place along with her son. As, she did not have sufficient means to maintain both of them and husband had neglected to maintain them and, therefore, she invoked section 12 of D.V. Act and sought various relief as provided under sections 18, 19, 20 and 22 of D.V. Act. The above claim and case was resisted by present revision petitioner (husband) denying all allegations in toto.

After appreciating the oral and documentary evidence, learned JMFC, Rahuri was pleased to allow the application directing restraining orders against husband.

However, learned Trial Court refused to grant maintenance to wife as well as refused to grant her distinct quantum for rent but was pleased to direct petitioner to pay Rs.5,000/- to the son, who was at that

point of time 12 years of age. That apart, Trial Court also granted compensation to the wife to the tune of Rs.20,000/- and awarded cost of Rs. 10,000/- towards proceedings.

3. Above order of refusing to grant maintenance to wife and also dissatisfied by less quantum granted to son as well as refusal to grant rent amount, wife as well as son knocked the doors of learned Sessions Judge by filing Criminal Appeal no. 169/2016 by invoking Section 29 of D.V. Act.

4. The learned Sessions Judge, Ahmednagar was pleased to partly allowed the appeal directing revision petitioner to pay maintenance to the tune of Rs.10,000/- to son alone i.e. till completion of his engineering education or till end of March, 2025, whichever event occurs first. Like wise, learned Appellate Court also directed revision petitioner to pay Rs.1,00,000/- every year for education of the son from 2021-2022 to 2024-2025 and thereby maintained remaining order of Trial Court regarding grant of compensation of Rs.20,000/- and Rs.10,000/- towards cost.

Dissatisfied by above order of learned First Appellate Court, present Revision is filed by husband.

5. It is fairly settled legal position that, revisional jurisdiction under Section 397 of Cr.PC can be exercised only in exceptional cases i.e. only when there is manifest error, perversity or to prevent gross miscarriage

of justice. This provision empowers revisional Court to interfere in cases where there is illegality, impropriety of any finding, sentence or order or irregularity committed by subordinate Court. Such jurisdiction is expected to be exercised in the four corners of the section when any patent illegality is brought to the notice of the said Court and when it is demonstrated that there is miscarriage of justice in any manner whatsoever.

6. Bearing above legal position in mind, case in hand is taken up for consideration. Heard.

7. Learned Counsel for revision petitioner has primarily assailed the above judgment and order of learned First Appellate Court on the ground that section 2(b) of D.V. Act provides for definition of the child and that said provision recognizes child to be only till he attains 18 years of age and after crossing such age, the child is considered to be major/adult and not entitled for maintenance. He placed reliance on judgment of this Court in the case of Rajendra D. Seth vs. Rekha Jha alias Rekha R. Seth, reported in 2014 SCC OnLine Bom 474 as well as in the case of Antonio De Matos Sequeira Almeida vs. Felicidade Wilma Almeida and Another, reported in 2018 SCC OnLine Bom 1123.

8. In answer to above, learned Counsel for Respondents would point out that, revision petitioner is husband. He too has to shoulder

responsibility of the son, more particularly, when son is undertaking course like engineering. He further pointed out that, in fact main proceedings were instituted way back in 2010 i.e. when son was barely 12 years of age. That, merely because first appellate proceedings are concluded in 2022, valuable right of the child to seek education cannot be taken away. He is also entitled to be maintained by father. That, therefore, learned First Appellate Court after taking all circumstances into consideration, was pleased to enhance the amount from Rs.5,000/- to Rs.10,000/- and the said order is just legal and proper and needs no interference.

9. Here, there is no dispute that parties are husband and wife and they also have son. Record shows that due to strained relations, respondent wife along with the son parted the company of her husband i.e. revision petitioner and thereafter, set up claim for their maintenance alleging neglect to be maintain. Learned Trial Court on complete appreciation, has held that wife has sufficient means for her own and that she also has shelter and, therefore, not entitled for maintenance, however, learned Trial court was pleased to allow maintenance to only son to the tune of Rs.5,000/-.

Dissatisfied by the above, again wife and son seems to have challenged the above order before Sessions Court, which was First Appellate Court, who was pleased to maintain the order of Trial Court as regards to disentitlement of wife to seek maintenance and quantum for rent, however,

it seems from the order of First Appellate Court that current education of the son by way of engineering course prevailed over the said Court and Court has thereby enhanced the maintenance amount to the son from Rs.5,000/- to Rs.10,000/- and also went ahead to grant compensation of Rs.1,00,000/- till the child attains majority or till 2024-2025. This order is now taken exception to by revision petitioner father.

10. Learned counsel for revision petitioner has relied on above referred rulings. It is true that in both the judgments this Court has taken into account the definition of child and has observed that after attaining majority i.e. age of 18, child is not entitled for maintenance. Therefore, impugned order enhancement off maintenance to the son from Rs. 5,000/- to Rs 10,000/- is required to be interfered with.

11. Now question which needs to be addressed is regarding directions of Appellate Court to father to pay Rs. 1,00,000/- for education fees is whether just and proper.

The fact of ongoing education of the child in the course during pendency of appellate proceedings is not disputed. Wife/mother of respondent no. 2 had come in appeal for enhancement of compensation to herself as well as to the son specifically for his education purpose. At that point of time, it was also brought to the notice of First Appellate Court that, wife had no sufficient means to provide for herself or for her son. This fact

cannot be lost sight of.

The very object of granting maintenance under Section 125 Cr.P.C. cannot be overlooked. Such provision is invoked for granting maintenance to avoid financial sufferings. The very purpose is to ensure that the person seeking maintenance cannot be allowed to be suffer hardships.

12. Admittedly, previously at the time of institution of proceedings, learned Trial Court had granted Rs.5,000/- but at that time son was barely 12 to 13 years of age. By passage of time, the son grew and thereafter shown to have secured admission even in engineering college. Wife alone is not liable to bare his education expenses alone and father is also obliged to shoulder the responsibility when he has means and resources. Courts cannot lose sight or shut its eyes to the ever rising educational expenses more particularly for professional courses like engineering. All such aspects seems to have prevailed over learned first Appellate Court for passing the impugned order with specific direction to pay Rs. 1,00,000/- till the course is over.

13. On Court's query, learned Counsel for the Respondents stated that son has completed his education of engineering in March, 2025. The order of First Appellate Court in the considered opinion of this Court, is perfectly legal in the light of peculiar facts and circumstances. Even otherwise, the purpose of the order of First Appellate Court directing

payment of Rs. 1,00,000/- to be paid only till March, 2025, is at present over. For said reasons, there is no case made out for any interference.

Hence, I proceed to pass following order:

ORDER

- (i) Criminal Revision Application is partly allowed.
- (ii) Clause no.2 of order dated 24.03.2022 passed by learned Additional Sessions Judge, in Criminal Appeal No. 169/2016 is hereby set aside.
- (iii) Rest of the judgment and order to remain intact.

(ABHAY S. WAGHWASE, J.)

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