



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 17 OF 2025

Pandhari Shivaji Jogdand

..APPLICANT

VERSUS

Gudiya @ Sneha Pandhari Jogdand

..RESPONDENT

....
Mr. N.S. Shinde, Advocate for the applicant
Mr. Manoj Shelke, Advocate for the respondent
....

CORAM : ABHAY J. MANTRI, J.
DATE : 24th SEPTEMBER, 2025

ORAL JUDGMENT :

1. The applicant-husband has preferred this revision challenging the judgment and order dated 24th July, 2023, passed by the Judge of the Family Court, Latur, in Petition No. E-87 of 2021, whereby maintenance of Rs. 8,000/- per month was granted from the date of application.
2. Heard learned counsel for both parties. Perused the impugned judgment and record and the decisions relied upon by learned counsel for the applicant.
3. At the outset, it appears that the respondent, being the wife of the applicant, filed an application under Section 125 of the Code of Criminal Procedure against the applicant before the Chief Judicial Magistrate, Latur. However, during the pendency of the application, the same was transferred to the Family Court, Latur, on account of jurisdiction. After considering the evidence on record, the learned Judge of Family Court held that the applicant is liable to pay the respondent a maintenance amount of Rs. 8,000/- per month and accordingly passed the

impugned judgment. Being aggrieved by the same, the applicant has preferred this revision.

4. Learned counsel for the applicant vehemently contended that no opportunity was given to the applicant to contest the matter on merit. The matter was transferred from the Court of Chief Judicial Magistrate, Latur, to the Family Court, Latur, and thereafter, no notice was received by the applicant regarding the change of the establishment. Therefore, he was not aware of the pendency of the proceeding before the Family Court.

5. He drew my attention to Section 126(2) of the Code of Criminal Procedure. He propounded that the evidence was not recorded in the presence of the applicant, and therefore, the passing of the order is contrary to the mandate of the said section. He relied on the judgment in ***Umakant Bhaskarao Nawarkhele Vs. Sneha Umakant Nawarkhele and Ors., 2014(3) Bom. C. R. (Cri.) 161*** and submitted that in view of the observations made in the said judgment, the impugned order cannot be sustained as the Family Court has proceeded with the matter simply noticing the absence of the applicant. Therefore, he urged that the impugned judgment and order be set aside.

6. *Per contra*, learned counsel for the respondent has pointed out paragraph no.9 of the judgment and submitted that in the case in hand, the applicant willfully neglected to attend the Court. Therefore, the learned Judge of the Family Court has rightly proceeded with the matter and awarded maintenance of Rs. 8,000/- per month. As such, no perversity appears in the impugned judgment and order. Hence, he urged the dismissal of the revision.

7. It is pertinent to note that the applicant does not dispute the relationship with the respondent. Also, the applicant and respondent are residing separately. Similarly, he is not disputing that he earns a salary of Rs. 45,000/- per month.

8. He only emphasised that no opportunity was granted to him, and in his absence, the proceeding was conducted, and therefore, as per Section 126(2) of the Cr. P. C., the said order is liable to be set aside. However, on perusal of the impugned judgment, in paragraph no. 5, it is apparent that the learned Judge has categorically observed that the applicant appeared in the matter through his advocate, Mr. Jawale, on 23rd January, 2020, and thereafter he remained absent despite granting an opportunity from time to time. It also reveals that the said matter was transferred to the Family Court. Similarly, the Court has observed that despite granting sufficient opportunities, the applicant did not file the say nor appear before the conciliar, but he failed. So, the Family Court has passed the order below Exhibit 1 on 04th August, 2021, to proceed with the matter without reply. The said conduct of the applicant itself indicates that he willfully avoided attending the proceedings.

9. For the sake of argument, even assuming that the matter was proceeded in the absence of the applicant, in that case also the applicant is liable to pay maintenance, as it is undisputed that the respondent is the wife of the applicant and residing separately. He is not providing any maintenance to her. In that eventuality, I am also not inclined to the submissions of learned counsel for the applicant in that regard.

10. On perusal of the impugned order, it is apparent that the learned Judge of the Family Court in paragraph nos. 16 to 19 of the impugned judgment has

observed that the applicant has sufficient means to pay maintenance to the respondent and the respondent is unable to maintain herself. Therefore, the applicant is liable to pay maintenance of Rs. 8,000/- p.m. (i.e. approximately 20% of the applicant's salary). The findings recorded by the learned Judge appear justifiable. On the contrary, 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.

11. Needless to state that the order of the Judge is not manifestly perverse. Nor is there anything perceptible that the order is a sanctuary of errors. In fact, the order is based on the proper appreciation of the evidence. It is pertinent to note that it is the obligation of the husband to maintain his wife. It is not permitted for him to plead that he is unable to maintain her due to financial constraints, as long as he is capable of earning. It is to be noted that the husband is duty-bound to maintain his wife, and for her day-to-day livelihood, he is duty-bound to provide a maintenance amount to her to live her life as per his status. In such an eventuality, it is necessary to grant maintenance to her. *Besides*, judicial notes can be taken that there is a rise in the prices of essential commodities. Therefore, the maintenance amount granted to the respondent also appears to be too meagre to satisfy her daily needs.

12. Thus, on perusal of the record and impugned judgment and order, it appears that the applicant failed to maintain the respondent when he has sufficient means of income to maintain her. The order passed by the learned Judge appears just and proper. No perversity was found to interfere with the revisional jurisdiction. Consequently, the applicant failed to point out that the said order is illegal and perverse. In such an eventuality, in my view, the observations made in the case of

Umakant Nawarkhele (supra) are hardly of any assistance to the applicant with respect to his contention. On the contrary, the order passed by the learned Judge is justifiable, and no interference is required.

13. As a result, the criminal revision application is devoid of merit and stands dismissed. Inform the order to the learned Family Court.

(ABHAY J. MANTRI, J.)

SSD