



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

CRIMINAL REVISION APPLICATION NO.173 OF 2025

Shaikh Afzal Moh. Ayyub Pinjari,
Age-42 years, Occu-Business,
R/o. Satya Sai Nagar, P. No.35,
Khadka, Bhusawal, Tq. Bhusawal,
Dist. Jalgaon

...APPLICANT
[Ori. Petitioner]

VERSUS

1. Malikabi W/o. Afzal Pinjari,
Age-27 years, Occu-Household,
C/o. Vajir Kadu Pinjari, Kasamwadi,
Near Mosque, Mehrun Road, Jalgaon
Tq. and Dist. Jalgaon

2. Liaba Afzal Pinjari
Age-9 years, Occu-Education
Minor through Guardian Mother
C/o. Vajir Kadu Pinjari, Kasamwadi
Near Mosque, Mehrun Road, Jalgaon
Tq. & Dist. Jalgaon

...RESPONDENTS
[Ori.Resp.Nos.1 and 2]

Mr. Pramod S. Gaikwad, Advocate for the applicant
Mr. Anand I. Deshmukh, Advocate for respondent Nos. 1 and 2

CORAM : ABHAY J. MANTRI, J.

DATE : 08th OCTOBER, 2025

ORAL JUDGMENT:

1. The applicant/husband has preferred this revision challenging the judgment and order dated 19-11-2024 passed by the learned Judge, Family Court, Jalgaon in Petition No. E-06/2019, A-284/2019 & A-333/2021, whereby maintenance of Rs. 20,000/- p.m.

and Rs. 10,000/- p.m. was granted to the wife and the daughter, respectively, from the date of filing the petition.

2. Heard the learned advocate for both parties and perused the impugned judgment and record.

3. At the outset, it appears that respondent No.1, being the wife and respondent No. 2, the daughter, have filed Petition No. E-06/2019 for the grant of maintenance under Section 125 of the Cr. P. C. before the learned Judge, Family Court. Similarly, the applicant has filed a petition bearing No. 333/2021 for a declaration that, from 30.07.2012, his marriage with respondent No. 1 was dissolved as per Muslim Law and Petition No. E-284/2019 was filed by the respondent No.1 for restitution of conjugal rights. After considering all these petitions, the learned Family Court clubbed them together and passed a common judgment and order.

4. It is pertinent to note that the applicant does not dispute his relationship with the respondents. Similarly, he does not dispute that they are residing separately and that he has not provided any maintenance to them. The learned advocate for the applicant only contended that the maintenance granted by the learned Family Court is exorbitant, as the applicant does not have sufficient means to pay Rs. 30,000/- per month to the respondents.

5. The applicant is aggrieved by the order passed in petition No. 6/2019, i.e., the maintenance proceeding under Section 125 of the Cr. P. C. has preferred this criminal revision application.

6. It is to be noted that the respondents filed a maintenance proceeding in 2013 before the learned Chief Judicial Magistrate, which was transferred to the Family Court on 20-01-2019, and the judgment was passed on 19-11-2024. The applicant appeared in the matter, filed his say/written statement, and denied the contents of the application. Both parties have contested the matter by raising rival submissions. Based on the rival contentions, the learned Judge framed the points and answered that the husband has sufficient means to pay the maintenance. However, he refused or neglected to maintain the respondents and, therefore, granted maintenance as stated above.

7. Respondent No.1 adduced the evidence and deposed about sources of income for the husband and also produced the income tax returns for the husband from 2016 to 2019 (Exh. 94 to 96).

8. *Per contra*, the applicant-husband has also examined his CA and produced the income tax return of his firm on record, Janseva Cotton Waste Company (Exh. 110 to 114). He also produced the income tax return of another firm.

9. Respondent No.1 has also produced the RC book of the vehicles possessed by the applicant on record. The respondent No. 1 concluded her evidence before 2017. The respondents cross-examined the applicant. During his cross-examination on 04-12-2017, he attempted to demonstrate that he had no concern with the Mattress and Cotton shop. However, on the second occasion, he admitted that since 1994, he had been paying tax in the name of that firm. He further admits that he is the sole owner of Janseva Mattress & Cotton Waste Shop. Having considered this, the learned Judge passed the impugned order granting maintenance.

10. The learned advocate for the applicant vehemently contended that the applicant has no income source, as held by the learned Judge. Therefore, the learned Judge erred in awarding the maintenance in excess. Consequently, he urged modification of the same and a reduction in the maintenance amount. He attempted to point out his income, as reflected in the income tax returns for the years 2017-2018 to 2022-2023.

11. It is pertinent to note that the proceeding was filed in 2013, and respondent No.1 adduced her evidence before 2017. In such circumstances, it would be appropriate to consider the evidence for the three years preceding it. Notably, in 2017, the respondents adduced the evidence, and judgment was passed in 2024. Therefore,

in my view, income tax returns filed on record from 2017-2018 to 202-2024 must be considered. Bare perusal of the said income tax return, it appears that the said income tax returns are in respect of one firm, as under:

2016-17	=	Rs.16,52,313/-
2017-18	=	Rs.10,76,844/-
2018-19	=	Rs.5,28,444/-
2019-20	=	Rs.6,25,563/-
2020-21	=	Rs.7,27,780/-
2021-22	=	Rs.8,86,510/-

12. One firm's income indicates ample income, and the average income would be approximately Rs. 10,85,000/- per annum, i.e. Rs. 90,000/- per month. The amount of maintenance was granted Rs. 30,000/- p.m. to the wife and son. The income of one company is considered, and if we consider the income of another firm, it would be more than Rs. 10 lakhs per annum.

13. It is pertinent to note that, as per the judgment in *Kulbhushan Kumar Vs Raj Kumari and Ors, AIR 1970 SC 234*, the Hon'ble Apex court has held that a wife is entitled to get maintenance up to 25% of the income of the husband as found by the income tax authorities and daughter is entitled to the extent of 15% of the average monthly income of the father that means both are entitled for approximately about 40% income in total. In the case at hand, even assuming that the applicant is getting Rs. 90,000/- per month

income as per the income tax returns, in that case also 40% of the said amount is approximately Rs. 36,000/-, and the maintenance awarded by the learned Judge of the Family Court is a total of Rs. 30,000/-. Therefore, I do not find substance in the learned advocate's contention on behalf of the applicant that the learned Judge has granted exorbitant maintenance to the respondents.

14. It is pertinent to note that, except for the above-ground, the applicant has not raised any ground in support of his case. Thus, the learned advocate for the applicant failed to point out perversity or illegality in the impugned judgment and order.

15. It is pertinent to note that it is the applicant-husband's obligation to maintain his wife. He cannot plead that he is unable to maintain them due to financial constraints as long as he is capable of earning. Moreover, it is worth noting that there have been rises in essential commodities. Therefore, the maintenance amount granted to the respondents appears to be too meagre to satisfy their daily needs.

16. It is worth noting 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 son but rather a legal and moral duty owed by the husband/father to maintain his wife and son. Undisputedly, the wife and son do not reside with the husband, and the husband does not provide them with any maintenance. This is sufficient in itself to grant them maintenance.

17. Thus, perusing the record and the impugned order, it appears that the applicant failed to maintain the respondents, when he has sufficient means of income to maintain them. However, he failed to point out that he does not have sufficient means of income to maintain them. It also appears that the applicant was running two businesses from two separate firms. Therefore, findings recorded by the learned Judge, Family Court, appear to be justifiable. However, learned counsel for the applicant failed to point out that the findings are illegal and manifestly perverse. Moreover, nothing perceptible shows that the order is a sanctuary of error. Therefore, I do not find substance in the contention of the learned advocate for the applicant to interfere in the impugned judgment and order in revisional jurisdiction. As a result, the criminal revision application being devoid of merits, stands dismissed and disposed of. No order as to costs.

18. Needless to clarify, the applicant is directed to deposit the entire arrears amount in the learned Family Court within eight

weeks from today. Failing which, the learned Judge of the Family Court shall take appropriate steps to comply with this order.

19. Inform the learned Family Court accordingly.

[ABHAY J. MANTRI, J.]

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