



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 169 OF 2023

1. Shaherbano Mohammad Ajharoddin Shaikh,
Age- 25 years, Occ.- NIL,
2. Khadija Fatima Mohammad Ajharoddin Shaikh
Age- 6 years, Occ.- NIL

The applicant no. 01 is guardian of applicant no. 02.
Both are R/o. C/o- Riyaj Ahmed Husnoddin Shaikh ,
House no. 265, Near Masjid, Shivaji Nagar,
Jalgaon, Taluka and District- Jalgaon.

..APPLICANTS

VERSUS

Mohammad Ajharoddin Najimoddin Shaikh
Age: 35 years, Occu.: Teacher,
R/o.: 476, Hazart Kholi, Near Goal Garden,
Malegaon, Taluka- Malegaon, District- Nashik

..RESPONDENT

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Mr. A.C. Mulange, Advocate h/f Mr. J.V. Patil, Advocate for applicants
Ms. Nayana Patil, Advocate h/f Ms. Surekha Mahajan, Advocate for the
respondent

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CORAM : ABHAY J. MANTRI, J.
DATE : 10th OCTOBER, 2025

JUDGMENT :

1. The applicants/original petitioners, being dissatisfied with the judgment and order dated 16th March, 2023, passed by the learned Judge of the Family Court, Jalgaon, in Petition No. E-379 of 2019, whereby directed the respondent to pay Rs. 7,000/- and Rs. 4,500/- towards maintenance to

Applicant Nos. 1 and 2, respectively, have preferred this revision application.

2. At the outset, it appears that the applicants have filed an application under Section 125 of the Code of Criminal Procedure (for short, 'Cr. P. C.') for the grant of maintenance. After considering the evidence on record, the learned Judge has partly allowed the application and granted maintenance to the applicants as stated above.

3. Heard learned advocates for the applicant and the respondent, and perused the impugned judgment and record as well as the judgments relied upon by the learned advocates for the applicants.

4. Learned counsel for the applicants vehemently contended that the learned Judge has not considered the dictum laid down in *Kulbhushan Kunwar Vs. Raj Kumari reported in 1970 CJ (SC) 242* and erred in granting meagre maintenance compared to the respondent's salary. He submits that the respondent has a gross salary of Rs. 78,975/-, and therefore, urged to enhance the said maintenance.

5. On the other hand, learned counsel for the respondent resisted the application, contending that the amount granted by the learned Judge is exorbitant. Therefore, the applicants are not entitled to claim enhanced maintenance. However, she admitted that the respondent has not challenged the impugned judgment and order.

6. Having heard learned counsel for both parties, the short question that arises is whether the quantum of maintenance awarded by the learned

Judge is just and proper, or it requires enhancement as claimed by the applicants. To determine the said question, it would be appropriate to go through the judgment in *Kulbhushan Kunwar* (supra) and the impugned judgment and record. In *Kulbhushan*, the Hon'ble Apex Court held that the wife and daughter are entitled to maintenance 25% and 15 % respectively of the husband's monthly income.

7. It appears that the learned Judge, in para 34 of the impugned judgment, has dealt with the judgment in *Kulbhushan* (supra) and the facts of the case, and after considering the same, held that Applicant No.1 is entitled to get the maintenance of Rs.7,000/- per month and Respondent No.2 for Rs. 4,500/- per month and in paragraph no.33, observed that the gross salary of the respondent is Rs. 78,975/- per month.

8. It further appears that the applicants have also filed proceeding under the provisions of Domestic Violence Act (for short '*D.V Act*') against the respondent and others, wherein the learned Magistrate has awarded additional maintenance of Rs. 5,000/- per month to each of the applicants from the date of application i.e. the Magistrate has granted Rs. 10,000/- per month to the applicants in addition to the maintenance of Rs. 11,500/- per month awarded in the proceeding under Section 125 of the Cr. P. C., i.e. in total getting maintenance of Rs. 21,500/- per month. It is pertinent to note that undisputedly the gross income of the respondent was brought on record is Rs.78,975/- and after deduction of the income-tax and professional tax his

net income would be Rs.75,000/- per month and 30% of Rs.75,000/- would come to around Rs.21,000/- and the applicants are getting Rs.21,500/-, therefore, even assuming the mandates laid down in *Rajnesh v. Neha and Another, (2021) 2 SCC 324* as well as *Kulbhushan Kunwar* (supra), in my view, the maintenance granted to the applicants under both the proceedings is sufficient, and therefore, there is no need to interfere in the impugned judgment. It appears that learned counsel for the applicants failed to point out that the order passed by the Judge of the Family Court is illegal, perverse, or a sanctuary of errors. As such, I do not find any substance in his contention to enhance the maintenance. On the contrary, it appears that after passing the order in the proceeding under Section 125 of the Cr. P. C., the learned Magistrate, awarded additional maintenance of Rs. 10,000/- per month to the applicants under the provisions of D.V. Act, and therefore, I do not find substance in his contention to interfere in the impugned judgment and order in the revisional jurisdiction. That being so, the revision application being bereft of merits, stands dismissed. No order as to costs.

(ABHAY J. MANTRI, J.)

SSD