



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

913 CRIMINAL REVISION APPLICATION NO. 187 OF 2023

LATA W/O VIJAYKUMAR PAIKRAO AND OTHERS

....Applicants

VERSUS

VIJAYKUMAR S/O KISHANRAO PAIKRAO

.....Respondent

Mr. M. P. Tripathi, Advocate for the applicants

Mr. Annasaheb S. Kadam, Advocate for the respondent

CORAM : ABHAY J. MANTRI, J.

DATE : 08th OCTOBER, 2025

ORAL JUDGMENT:

1. The applicants have preferred this revision application challenging the judgment and order dated 23-05-2023 passed by the learned Judge, Family Court, Parbhani, in Petition No. E-54/2020, whereby their application for the grant of maintenance was dismissed.

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

3. It is pertinent to note that the learned advocate for the applicants fairly submitted that the applicants are not claiming maintenance for applicants No. 2 and 3 as they became majors. Their younger daughter, applicant No.3, is in service, and they are waiving

their rights. But they are only claiming maintenance for applicant No.1, i.e., the wife of the respondent.

4. At the outset, it appears that the applicants, being the wife and daughters, have filed the application before the learned Family Court for a grant of maintenance against the respondent. After considering the evidence on record, the learned Judge dismissed the petition, holding that the respondent is providing maintenance to applicant Nos. 2 and 3 and taking care of them. Aggrieved by the said order, the applicants have preferred this revision.

5. It is to be noted that the respondent does not dispute his relationship with the applicants. The applicants do not dispute that applicant Nos. 2 and 3 are major and, therefore, they do not wish to continue with the revision application. As such, the learned advocate for the applicants submitted that on instructions, he wants to withdraw the revision application on behalf of applicant Nos. 2 and 3.

6. His statement is accepted. In view of this, the revision application is dismissed against applicants No. 2 and 3 only.

7. Now, the short but crucial question arises before this court, whether the applicant is entitled to the maintenance, or whether the order passed by the learned Judge is just and proper?

8. It reveals from the evidence and salary slip of the

respondent that he is getting a gross salary of Rs. 2,35,361/- (after statutory deduction, he will get Rs. 1,67,017/- (Page-35). The learned advocate for the respondent does not dispute the said facts.

9. The learned advocate for the applicant vehemently submitted that the learned judge, without assigning any reasons, had erred in dismissing the petition on the ground that the respondent is providing maintenance to the applicants Nos. 2 and 3. Therefore, he urged that the said findings are liable to be reversed in the revision. He has drawn my attention to the salary slip of the respondent and paragraphs 18, 19 and 21 of the judgment and urged for setting aside the impugned judgment and order.

10. *Per contra*, the learned advocate for the respondent strenuously opposed the application and argued that the respondent has paid an amount of Rs. 5 lakhs to the applicant No. 1; therefore, she is not entitled to claim maintenance. However, he failed to point out from the record or say or evidence that he has paid the said amount to the applicant No. 1, and therefore, I do not find substance in his contention in that regard. If he had paid Rs. 5 lakhs to the applicant No.1, he would have stated in his say or deposed before the court. Non-deposing said fact before the court leads to the drawing of an adverse inference against him.

11. The learned advocate for the respondent further raised

the ground that in the D. V. proceeding, the court granted interim maintenance of Rs. 5000/- per month to applicant Nos. 1 to 3 each, and therefore, the applicants are not entitled to maintenance. As such, the order passed by the learned Judge is just and proper, and no interference is required in the impugned order.

12. Undisputedly, the evidence on record shows that the respondent is receiving a gross salary of Rs. 2,35,361/- p.m., and after deducting statutory deductions, he will get a salary of Rs. 1,80,000/- p.m. However, he only pays the applicants the maintenance of Rs. 15,000/- p.m.

13. 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 her due to financial constraints as long as he is capable of earning. Moreover, judicial note can be taken that there have been rises in essential commodities, and therefore, the interim maintenance amount granted to the applicants in D. V. Proceedings appears to be too meagre to satisfy their daily needs.

14. 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 but rather a legal and moral duty owed by the husband to maintain his wife and children. Undisputedly, the wife and children do not reside with the respondent, and the respondent pays a meagre amount to them for their livelihood, which is not at all sufficient to satisfy their daily needs. These facts are sufficient to grant maintenance to them.

15. On perusal of the impugned judgment and order, it appears that in para 20 and 21 of the judgment, the learned Judge has observed that it is crystal clear that though the respondent is residing separately from the applicants, he is regularly providing the amount of maintenance to the applicants. The applicants further stated in the petition and deposed in the affidavit that the respondent sent them Rs. 10,000/- per month for four months, then started sending Rs. 5000/- per month. The respondent also pays expenses like education fees and other charges to applicants Nos. 2 and 3. Therefore, it cannot be said that the respondent is neglecting or refusing to maintain the applicants. Nowhere is it discussed or observed by the learned Family Court about the payment of the maintenance to applicant No.1. Therefore, the said findings appear unjust and improper. To that extent, interference is required in it. Even assuming that, as per the order in the D. V. proceeding, the respondent is paying Rs. 5000/- p.m. to each applicant as

maintenance, in such circumstances, in my view, said amount of maintenance is too meagre to satisfy their daily needs. As per the settled position of law the applicant No.1 is entitled to get maintenance to live her life as per the status of her husband and husband is getting more than Rs.1,80,000/- per month and therefore, she is entitled up to 25% of the said amount i.e. she is entitled additional maintenance in addition to interim maintenance granted to her under the D. V. proceedings. As such, interference is required in the impugned judgment and order.

16. As a result, I find substance in the contention of the learned advocate for the applicants that the applicant No. 1 is unable to maintain herself and she has no sufficient means of income. On the other hand, the respondent has sufficient means of income. However, he failed to maintain the applicant No.1.

17. As a result, the criminal revision application is partly allowed. The impugned judgment and order dated 23-05-2023, passed by the learned Family Court, Parbhani, in Petition No. E-54/2020 is hereby allowed to the extent of applicant No.1. The respondent-Husband is directed to pay an amount of Rs. 20,000/- p.m. towards maintenance in addition to an amount of Rs. 5000/- per month, which she is getting under the provision of D. V. Act, from the date of the petition. The respondent is directed to deposit the

arrears of maintenance amount in the learned Family Court, Parbhani, within eight weeks, failing which, the learned Judge is requested to take appropriate steps to comply with this order. Needless to clarify, the criminal revision application is dismissed as against the applicants No. 2 and 3.

[ABHAY J. MANTRI, J.]

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