



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

**CRIMINAL REVISION APPLICATION NO. 338 OF 2025
WITH CRIMINAL APPLICATION NO. 2707 OF 2025**

BALAJI NIVRUTTI ARDAD

.....Petitioner

VERSUS

KUSHIVARTA BALAJI ARDAD

.....Respondent

Mr. V. B. Kulkarni, Advocate for the applicant

Mr. A. R. Syed, Advocate for the respondent

CORAM : ABHAY J. MANTRI, J.

DATE : 04th OCTOBER, 2025

ORAL JUDGMENT :

1. The applicant-husband has challenged the judgment and order dated 26-08-2024 passed by the learned Judge, Family Court, Jalna, in Petition No. E-45/2024, whereby the applicant was directed to pay Rs. 1500/- per month to the respondent from the date of the petition.

2. At the outset, it appears that the respondent, being the wife of the applicant, filed an application under Section 125 of the Cr. P. C. against the applicant. After considering the evidence on record, the learned Magistrate held that the applicant is liable to pay the respondent the maintenance of Rs. 1500/- per month. Accordingly, the Court passed the impugned judgment and order.

3. It is pertinent to note that the applicant is not disputing his relationship with the respondent. However, he challenges judgment and order only on the point of the quantum of maintenance amount. For that, the applicant raises two grounds: first, that no notice was served on the applicant, and second, that the respondent has sufficient means of income to maintain herself. Therefore, the applicant is not liable for paying the maintenance amount.

4. The learned advocate for the applicant has drawn my attention to the police report (Page Nos. 18 & 19) and submitted that the police report itself indicates that no notice was served on the applicant by following due process of law. Therefore, the question of proceedings of the matter *ex parte* against the applicant does not arise, or it can be said that no opportunity was given to the applicant to contest the matter. However, perusing the impugned judgment and order, it appears that in the second para 5, the learned Judge has categorically observed that “*despite service of notice, the respondent (applicant herein) failed to appear before the court. Hence, the petition proceeded ex parte against him vide order below Exh. 1 dated 28-05-2024.*” The said observations themselves indicate that despite the service of notice, the applicant did not appear before the court. Moreover, on perusal of the police report, it is evident that the police had been to the house of the applicant. But he did not find it

there. Therefore, he handed over the copy of the notice along with the application to the adult family member and informed the applicant on the phone to appear in the matter. It also appears from the notice (page No.19) that the applicant currently residing at Deodehatgaon, Tq. Ghansangvi, Dist. Jalna. Thus, it seems that the police officer informed the applicant to attend the proceeding, and the learned Family Court treated it as a valid service.

5. Secondly, the learned advocate for the applicant emphasised that the respondent has sufficient means of income and therefore, she is not entitled to maintenance.

6. It also pointed out the clause (u) (page No. 27) that she is having 1-H 90-R land, but the same is barren. Therefore, she could not get any income. It also appears that in her testimony, she has categorically deposed that the applicant has 4.5 acres of agricultural land and he is doing business of Pepsi Cola under the name and style '*Kajal*' *Pepsi*. He earns Rs. 1 lakh monthly from the agricultural land and business. The said testimony of the respondent remained unchallenged. There is no reason to disbelieve the same. She also deposed that the applicant drove her out of the house, and she is residing separately.

7. Apart from that, the filing of the maintenance application itself indicates that the respondent is unable to maintain

herself and the applicant is not providing for her maintenance. Therefore, I do not find any substance in the contention of the learned advocate for the applicant in that regard.

8. It is pertinent to note that it is the obligation of the husband to maintain his wife. He cannot be permitted to plead that he is unable to maintain her due to financial constraint as long as he is capable of earning. Furthermore, the applicant failed to point out that he does not have sufficient means of income to maintain the respondent. Besides, the judicial note can be taken that there is a hike in the prices of essential commodities. Therefore, the maintenance amount granted to the respondent appears to be too meagre to satisfy her daily needs.

9. Even assuming that no opportunity was given to the applicant to adduce the evidence, or to have taken the facts as it is, in that case also, I am not inclined to consider his submission as the amount granted by the learned Judge is too meagre to satisfy the daily needs of the respondent. The amount granted is only Rs. 1500/-, which is too meagre to meet her daily livelihood. Therefore, I am not inclined to interfere in the impugned judgment and order on the said ground, nor in the revisional jurisdiction.

10. *Furthermore*, Section 125 of Cr. P. C. is a social welfare provision, which must be subjected to an extensive beneficial concern, and this understanding has been extended to maintenance. Likewise, it must be borne in mind that the right to maintenance under Section 125 of the Cr.P.C. is not a benefit by the wife but rather a legal and moral duty owed by the husband to maintain his wife. Undisputedly, the wife has been residing separately, and the applicant has not provided any maintenance to her. The said ground itself is sufficient to grant maintenance to them.

11. Thus, perusing the record and impugned order, it appears that the applicant failed to maintain the respondent when he had sufficient means to maintain her. Consequently, the order passed by Ld. Magistrate is just and proper. However, the learned advocate for the applicant failed to point out that the findings recorded in the judgment and order are manifestly perverse or illegal. Hence, I do not find any substance in the contentions of the learned Advocate for the applicant to interfere in the impugned Judgment and order in the revisional jurisdiction.

12. As a result, the criminal revision application lacks merit and stands dismissed and disposed of. No order as to costs.

13. In view of the above, the criminal application for stay is also disposed of.

[ABHAY J. MANTRI, J.]

VishalK/907cirevapln7532.25.odt