



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

CRIMINAL REVISION APPLICATION NO. 212 OF 2024

Mr. Balram s/o Lekhram Sharma,
Age: 40 Years, Occu: Service,
R/o – Lok Nayak Jaiprakash Narayan Hospital,
2, New Delhi Gate, Jawaharlal Nehru Marg,
New Delhi – 110 002

...Applicant

Versus

Ms. Sonia w/o Balram Sharma,
Age: 30 Years, Occu: Education & Household,
R/o – C/o. Dharmendra Bhupsingh Sharma,
Dattanagar, Plot No. 04, Satara Parisar,
Beed-By-Pass, Aurangabad – 431 001.

...Respondent

- Mr. A. G. Talhar, Advocate for the Applicant
- Mr. A. N. Sabnis, Advocate for the Respondent

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : NOVEMBER 19, 2025
PRONOUNCED ON : NOVEMBER 20, 2025

JUDGMENT :

1. Present Revisionist, who is husband of Respondent, is taking exception to the judgment and order dated 21.05.2024 passed in Application No. E-253/2022 by learned Principal Judge, Family Court, Aurangabad.

2. Background in nutshell giving rise to the revision are as under:

Present respondent-wife, who was married to revisionist on 22.04.2016, instituted proceedings under Section 125 Code of Criminal

Procedure (Cr.P.C.) seeking maintenance from husband on the ground of being neglected to maintain. The learned Principal Judge, Family Court, Aurangabad, vide judgment dated 21.05.2024 after hearing the parties held that it was proved that respondent was willfully neglected and was refused to the maintain by husband and as such, she being unable to maintain herself and revisionist-husband having sufficient means to maintain her is liable to pay maintenance @ of Rs. 15,000/- from the date of application, which was in addition to the earlier maintenance granted in PWDVA Case No. 437/2017 delivered on 15.09.2023.

Dissatisfied by the above order of learned Principal Judge, Family Court, revisionist-husband has questioned the same by filing instant revision.

3. Learned Counsel for the Revisionist would point out that admittedly parties were married in 2016. Thereafter, according to him, several proceedings were instituted by wife including Domestic Violence Act proceedings as well as lodging FIR under penal sections. He submitted that parties have already obtained divorce and as such, no relations subsist between them. He further submitted that wife instituted proceedings before Family Court by invoking section 125 Cr.PC and sought maintenance even when she was highly qualified and able bodied and capable of earning. According to him, in fact she is already beneficiary of Rs. 35,000/- from the

Court which has dealt her proceedings under Domestic Violence Act. He pointed out that in spite of so, vide impugned judgment directions are issued to the revisionist-husband to pay additional amount of Rs 15,000/-. This, according to him, is the illegality and error on the part of trial Court and so he seeks indulgence of this Court.

4. In answer to above, learned counsel for Respondent-wife would submit that marriage was not disputed and even aspect of divorce is also not disputed. However, according to him, divorced wife is entitled to be maintained when she has no sufficient means. He pointed out that law is fairly settled that wife is entitled to institute proceedings under both Domestic Violence Act as well as under Section 125 of Cr.PC and she is entitled to seek maintenance when there is neglect to maintain her and when she has no independent source for survival. Thus, he justifies the order of the Family Court and urges to dismiss the Revision Application.

5. The short point involves in this revision is that whether in addition to any maintenance received in domestic violence proceedings, wife is entitled to maintain proceedings under Section 125 Cr.PC and seek maintenance.

Before answering above question, it would be desirable to give short account of facts involved in the case. Present revisionist and respondent are husband and wife respectively who seems to have got

married on 22.04.2016. According to respondent-wife, barely after a month or so she was maltreated, deprived from marital pleasures and there was demand of Rs. 5,00,000/-, which later compelled her to file FIR. Apart from it, she also filed Application no. 155/2017 seeking maintenance and later on compromise seems to have taken place between the parties. However, again there were volley of allegations about being taken and kept at Bhilwara, Rajasthan and husband leaving her company and residing in Delhi. According to respondent-wife, she was pressurized to sign proceeding of divorce under mutual consent in the Court of Rajasthan. That, as there was some incidence of confining and subjecting to cruelty, she came back to her parents place at Aurangabad. However, as she had no means and as was being neglected from being maintained, she instituted proceedings by invoking provisions of Protection of Women from Domestic Violence Act, 2005 bearing no. 437/2017 and vide order dated 15.09.2023, revisionist was directed to pay her amount of Rs. 25,000/- per month as maintenance and Rs. 10,000/- towards rent and thereby she stood beneficiary to the tune of Rs. 35,000/- towards maintenance and rent.

6. Again she instituted Section 125 Cr.PC proceedings bearing no. E-253/2022 seeking further maintenance. After hearing both sides, learned Principal Judge, family Court, Aurangabad has passed impugned order that in addition to earlier Rs. 35,000/-, revisionist should pay Rs. 15,000/- more

and such order is precisely taken exception to.

7. Only ground agitated while preferring revision is that, parties are divorced and secondly, wife is already receiving maintenance under PWDVA proceedings and, therefore, learned Family Court ought not to have granted additional maintenance. According to learned Counsel for revisionist the same is not permissible.

8. There is no substance in above submissions. In fact, a divorced wife can definitely maintain proceedings both under Section 125 Cr.PC as well as under Domestic Violence Act as both provide for distinct cause of action and are separate proceedings. Proceedings under Section 125 Cr.PC are for maintenance whereas proceedings under Domestic Violence Act are for monetary relief for expenses and losses incurred due to domestic violence and the same are in addition to maintenance entitled to. However, in subsequent proceeding, amount granted, if any, has to be in addition to the earlier amount i.e. earlier quantum of maintenance awarded is to be taken into account. Court has to adjust the quantum in view of the needs and requirements of the party.

9. In fact, law to above extent has been clarified by this Court in the case of *Bhagyashree vs. Purushottam, 2022 SCC OnLine Bom 6583*, holding that proceeding both under Section 125 Cr.PC as well as

proceedings under Domestic Violence Act are indeed maintainable.

10. Here, revisionist admittedly works as Nursing Officer and it has come on record that he earns salary to the tune of Rs. 1,50,000/-. In earlier proceedings, respondent-wife is beneficiary of total Rs. 35,000/-. Law permits wife to seek $1/3^{\text{rd}}$ amount of the said income.

11. Therefore, taking the same into account, additional amount of Rs. 15,000/- granted by the Family Court cannot be said to be illegal or excess. For above reasons, this Court does not find any error on the part of trial Court in granting additional maintenance apart from earlier maintenance, so as to cause interfere.

12. In view of above discussion, as this Court finds no case being made out on merit in the revision, the same is required to be dismissed. Accordingly, criminal revision application stands dismissed.

(ABHAY S. WAGHWASE, J.)