



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 241 OF 2025

Surekha Ankush Rayandre

...Applicant

Versus

Ankush Rambhau Rayandre

...Respondent

Mr. Solanke Krushna S., Advocate for the Applicant.

Mr. Patil Dhananjay Shrikant, Advocate for the Respondent.

CORAM : ABHAY J. MANTRI, J.

DATE : OCTOBER 07, 2025

ORAL JUDGMENT :

1. The applicant has preferred this revision challenging the judgment and order dated 12th June 2025, passed by the learned Judge, Family Court, Jalna, who thereby rejected the application filed by the applicant for the grant of maintenance.

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

3. At the outset, it appears that the applicant, being the wife of the respondent, filed a petition under Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "*Cr.PC.*") against the respondent. The respondent appeared in the matter and denied the contents on the ground that the petitioner is living in adultery and a crime was registered against her under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "*NDPS Act*"); hence, urged

for rejection of the petition. After considering the evidence on record, the learned Judge held that the petitioner is involved in a crime relating to the sale of Narcotic drugs. Therefore, she is not entitled to maintenance and accordingly rejected the petition. Against the said judgment and order, the applicant has preferred this revision.

4. It is pertinent to note that the respondent is not disputing his relationship with the applicant, nor does he dispute that the applicant is residing separately, and he has not provided any maintenance to her. The respondent resisted the application on two grounds: first, that the applicant is criminally minded and selling “*Ganja*,” due to which a criminal case is pending against her, and second, that she had an extramarital affair with Suresh Laxman Pawar.

5. Having heard the learned advocate for both parties, I would like to deal with the first ground, which is that the criminal case was pending against the applicant under the provisions of the NDPS Act. However, during the pendency of the petition before the Family Court, by an order dated 01st June 2024, the applicant was acquitted for the said offence and the said fact was brought to the notice of the learned Judge, Family Court, however, learned Judge, Family Court did not take into consideration the said fact and observed that the involvement of the applicant in the crime relating to selling of Narcotic Drugs is a grave misconduct on the part of the applicant, which can certainly affect the respondent, due to the involvement

of the applicant in the crime can be said to be the reason for their separation. However, the applicant's acquittal indicates that she was not involved in the crime; therefore, she was acquitted.

6. Even assuming that mere registration of the crime is not grounds for refusing to grant maintenance to her. Section 125 of Cr.PC. doesn't contemplate that if any person is involved in the crime, she is not entitled to get the maintenance; therefore, the finding recorded by the learned Judge, Family Court, in that regard appears to be contrary to the settled position of law. As such, I do not find substance in the contention of the learned advocate for the respondent in that regard.

7. The second limb of the argument was that the applicant had an extramarital affair with one Suresh Pawar; however, he has not produced any document or evidence in that regard on record. On the contrary, during his cross-examination, he categorically admitted that he didn't lodge any complaint against the applicant about having her illicit relationship or extramarital relationship with one Suresh Pawar, nor filed any proceedings against her; on the contrary, he deposed that he is ready to cohabit with her. The said testimony itself indicates that, despite the allegation of an extramarital relationship of the applicant, the respondent was shown his readiness to cohabit with her, which leads to an adverse inference about the said allegations. Moreover, nothing has been brought on record to show that the applicant had an extramarital affair with one Suresh Pawar. Therefore, I

do not find substance in the contention of the learned advocate for the respondent in that regard.

8. The crucial question is as to how much quantum of maintenance the applicant is entitled to. The applicant, in her testimony, categorically deposed that the respondent has 8 Acres of agricultural land and he has transferred 5 Acres of land in the name of his son and 3 Acres of land shown to be sold in favour of the father of the second wife, Bhagyashree. Similarly, the respondent, during his cross-examination, has not disputed that on 13th March 2023, he sold 1 H 20 R of land in favour of Laxman Sakharam Veer; however, he denied that Laxman Sakharam Veer is the father of the second wife, Bhagyashree. During the cross-examination, he admitted that he sowed soyabean in 20 R land; however, the respondent has not adduced any evidence to show what his income is and how much land he possesses. In fact, it was incumbent on him to state his income and adduce evidence in that regard, because said fact was within his knowledge, and therefore, he is the best person to state his income. As such, the burden of proving that fact is upon him. However, he has not adduced any evidence to show his income; therefore, an adverse inference can be drawn against him.

9. Besides, as per the mandate in *Rajnish vs. Neha and Ors.*, the respondent had to file an affidavit disclosing his assets and liabilities before the Court. However, he failed to produce the same before the Court in

support of his defence or contention, which also led to drawing an adverse inference against him that he has agricultural land.

10. Furthermore, the applicant alleged that the respondent had performed the second marriage, and during his cross-examination, the photograph was also shown to him; however, there is no sufficient evidence brought on record in that regard.

11. It is pertinent to note that it is an obligation of the husband to maintain his wife. He cannot be permitted to plead that he is unable to maintain her due to financial constraints as long as he is capable of earning. Moreover, a judicial note can be taken that prices of essential commodities are escalating day by day, and therefore, it is very difficult for the applicant to survive without any maintenance to satisfy her daily needs.

12. It is worth noting that Section 125 of the 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. Similarly, it must be borne in mind that the right to maintenance under Section 125 of the Cr.P.C. is not a benefit received by the wife, but rather the legal or moral duty the husband owes to maintain his wife. Undisputably, the wife does not reside with the husband, and the husband does not pay her anything for her maintenance; these facts are sufficient to grant maintenance to her.

13. Thus, perusing the impugned judgment and record, it appears that the respondent doesn't dispute that the applicant is his wife. It also seems that the respondent has failed to maintain the applicant, despite having sufficient means of income, and the respondent possessed agricultural land. As per the mandate of Section 125 of Cr.P.C., filing of the application itself is enough to indicate that the wife is unable to maintain herself and the respondent neglects to maintain her. However, the learned Judge, Family Court has not considered these aspects in its proper perspective and erred in holding that a registration of the serious offence against the applicant under the provisions of the NDPS Act, she is not entitled to claim the maintenance, the said finding appears to the contrary to the settled position of law, as well as the mandate in Section 125 of Cr.P.C., and therefore, the said findings cannot be sustained in the eyes of law and liable to be set aside in revision.

14. Consequently, I deem it appropriate to set aside the impugned judgment and order; as a result, the Revision application is allowed.

15. The impugned judgment and order dated 12th June 2025, passed by the learned Judge, Family Court, Jalna, in Petition No.E-16/2023, is hereby quashed and set aside, and the application filed by the applicant is partly allowed.

16. The respondent is directed to pay the applicant maintenance of ₹ 6,000/- per month from the date the petition was filed, 25 January 2023.

17. Needless to clarify, the respondent is directed to deposit the entire amount of maintenance as directed above in the Family Court, Jalna, within eight (10) weeks. Failing which, the learned Judge is requested to take appropriate steps to comply with this order.

18. The revision application is partly allowed in the above terms.

(ABHAY J. MANTRI, J.)