



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 66 OF 2025

Gopalsingh S/o Devichand Dhavliya
Age: 35 Years, Occ. Labour,
R/o. Daulatpura, Tq. Jafrabad,
Dist. Jalna

...Applicant

Versus

1. Sarita W/o Gopalsing Dhavliya,
Age: 25 Years, Occ: Household,
R/o. C/o Laxman Ishwar Chavan,
N-13, C-11, Hudco, Bharat Nagar,
Aurangabad

2. Sonakshi D/o Gopalsing Dhavliya,
Age: 13 Years, Occ: Household,
Under guardian Applicant No.1
R/o. As above

...Respondents

- Mr. Y. G. Somani, Advocate for the Applicant
- Mr. T. Y. Sayyad, Advocate for Respondents

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : DECEMBER 18, 2025
PRONOUNCED ON : DECEMBER 19, 2025

JUDGMENT :

1. Instant Revision Petition is an offshoot of judgment and order dated 17.02.2024 passed by learned Family Court, Aurangabad in Petition No. E-149/2018 directing present Petitioner to pay maintenance to Respondent nos. 1 and 2, his wife and daughter.

2. The background of the case is that, present Respondent No.1 was married to Revision Petitioner on 21.05.2010 and Respondent No.2 is born out of the said wedlock. After two months of marriage, relations between them turned sour and one of the other grounds was bickering between them. Wife has alleged that, she was physically abused, not paid money to run the house, her ornaments being forcibly taken away and on 04.05.2017, she was driven out of house with girl child. Her claim is that, she being homemaker, she had no independent source of means to maintain herself and her child. On the contrary, it is her case that, husband, who is agriculturist, earn around Rs.3,00,000/- per annum and had sufficient means to provide for maintenance but he failed to do so. Therefore, she instituted proceedings before Family Court by invoking provisions of Section 125 of Code of Criminal Procedure, in which learned Family Court was pleased to direct amount of Rs.4000/- p.m to be paid to wife and Rs. 3000/- p.m to be paid to daughter.

Feeling aggrieved by the above, present Revision has been pressed into service by Revision Petitioner-Husband.

3. Learned Counsel for Revision Petitioner would submit that, impugned order passed in absence of any evidence about husband Revision Petitioner earning approximately Rs.25,000/- p.m. It is his submission that, only holdings of Revision Petitioner were to the extent of 80 Are and there

was no evidence that he had independent earning from joint family agriculture occupation. According to learned Counsel, merely on the assertions and claim of wife, learned Trial Court on assumptions and presumptions has derived income and awarded maintenance to wife and daughter. According to him, no sound reasons are assigned while granting maintenance. He would also point out that, wife was already beneficiary of interim maintenance to the tune of Rs.4,000/- and now in absence of any cogent and reliable evidence, further maintenance is directed to be paid to Rs.4,000/- and even Rs.3,000/- to the daughter. He further pointed out that, in fact, husband had showed his readiness and willingness to cohabit and had also taken steps by sending notice but wife refused to cohabit without just cause and as such, according to him, under such circumstances, she at all not entitled for any maintenance. According to him, exorbitant maintenance is awarded by Family Court and he prays to reconsider the entitlement of maintenance by allowing the revision.

4. In response to above, learned Counsel for the Respondents wife and daughter would justify the order of Trial Court by pointing out that there was neglect to maintain in spite of sufficient means by way of agricultural activity. According to him, wife is required to provide also for the upbringings and education of the daughter and as such, he justifies the grant of compensations to both of them.

5. Heard. This being revision, there is limited scope for this Court is to test whether impugned judgment is just, legal and proper and whether there is any illegality or irregularity on the part of Trial Court. With such limited scope, papers placed on record are put to scrutiny.

6. It emerges that, Revision Petitioner and Respondent No.1 got married on 21.05.2010. Respondent no.2 seems to be born to them in May, 2011. After two months of marriage, relations between Petitioner and respondent No.1 seems to have become strained as according to Respondent No. 1 Revision Petitioner addicted to liquor, indulged in verbal and physical abuse and even refused to pay for day to day expenses and rather started pressurizing her to give divorce. She has alleged that, after delivery when she returned, she was not permitted to enter the house but on indulgence of relatives, she was allowed but husband conducted herself as previously and she claims that finally on 04.05.2017 after beating her, she and daughter were driven out of the house and she is taking shelter at her parents' place. She has specifically set up a case that, husband has agriculture income to tune of Rs.3,00,000/- and thereby, she claim maintenance to the tune of Rs.20,000/- p.m. for herself and daughter.

7. Respondents' above claims was stiffly resisted by present Revision Petitioner denying all averments of maltreatment & abuse. On the contrary, he put up a case of wife picked up quarrel on several counts and

was eager to reside separately from family of husband. That, she repeatedly went to the matrimonial place and was required to be called back by taking recourse to legal notice. Therefore, it is his case that, she being not herself willing to cohabit, is not entitled for any maintenance.

8. In the light of above cases advanced by each of the sides before Trial Court, it is clear that due to strained relations between them, wife resides with her daughter at her parent's place. While countering the entitlement of maintenance, husband Revision Petitioner has not set up any case that she has independent sufficient means to maintain herself or the daughter. It is also emerging from the papers that, wife is getting interim maintenance to the tune of Rs.4000 in proceedings initiated under Protection of Women from Domestic Violence Act, 2005. There is no quarrel or dispute in this regard. Now, by virtue of impugned order, learned Family Court seems to have awarded Rs.4000 to wife and Rs.3000 to daughter apart from earlier maintenance. If this is so, then currently wife seems to be receiving over Rs.8,000/- and Rs.5,000/- (Rs. 2,000/- of interim maintenance and Rs. 3,000/- of enhanced maintenance) by the daughter. Admittedly, agriculture is the only income of Revision Petitioner. Objection is raised in this revision to the above order of Family Court on the ground that merely on averments of husband earning Rs.3,00,000/- from agriculture income, maintenance has been awarded. From the observations made in

paragraphs 18 and 19, this Court also noticed that considering husband owning 80 Ares land and the assertion of wife that he also conducts agriculture business of joint holdings of the family, maintenance seems to have been derived at by holding that he must be earning Rs.3,00,000/- i.e. around Rs.25,000/- per month. However, as pointed out, there is no basis for deriving or arriving at such figure. But equally, papers placed on record do show that, wife has no means of earning and she rather has to also provide for the upbringing and education of daughter. Considering the rising prices and expenses for living as well as education, monetary means are necessary. But as stated above, there is no evidence either documentary or oral in support of the contention of husband Revision Petitioner earning Rs.3,00,000/- from agriculture or earning approximately Rs.25,000 p.m.

9. Under such circumstance, when wife is already beneficiary of Rs. 4,000/- by way of interim maintenance and further upscaling the figure of maintenance of wife by Rs. 4,000/- seems to be excess. However, daughter who is undergoing education, thus, need financial assistance.

10. For above reasons, the grant of maintenance to wife is only required to be interfered with. Wife by virtue interim maintenance is already beneficiary of Rs.4,000/- and, therefore, further rise of Rs.2,000/- should suffice for her maintenance. As regards to daughter is concerned, maintenance awarded to her to the tune of Rs.3,000/- is justified.

Resultantly, impugned order dated 17.02.2024 passed Family Court, Aurangabad deserves to be modified. Hence, the order:

ORDER

- (a) Criminal Revision Application is partly allowed.
- (b) Clause no. 2 of judgment and order dated 17.02.2024 passed by Family Court, Aurangabad is modified to the extent that Revision Petitioner – Husband (Original Respondent) is directed to pay the amount of Rs. 2,000/- p.m. to Respondent No. 1 – Wife (Original Petitioner No. 1).
- (c) Rest of the judgment and order dated 17.02.2024 passed by Family Court, Aurangabad to remain unchanged.

(ABHAY S. WAGHWASE, J.)

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