



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

912 CRIMINAL REVISION APPLICATION NO. 315 OF 2025

Abhishek Sharad Kulkarni,
Age-28 years, Occu-Service,
R/o. Asoda, Tq. & Dist. Jalgaon.

...APPLICANT

VERSUS

Kanchan Abhishek Kulkarni,
Age-24 years, Occu-Household work,
R/o. C/o. Ramesh Gangadhar Kerhalkar,
Dwarka Bildg. Shivaji Nagar, Hudco,
Jalgaon, Tq. & Dist. Jalgaon

...RESPONDENT

Mr. Mohd. Aamir, Advocate h/f Mr. Harshal P. Randhir, Advocate for
the applicant
Mr. Rohit R. Dhongde, Advocate a/w Ms Riya S. Pande, Advocate h/f
Ms Rashmi Kulkarni, Advocate for the respondent

CORAM : ABHAY J. MANTRI, J.

DATE : 16th OCTOBER, 2025

ORAL JUDGMENT :

1. The applicant-husband being aggrieved by the judgment and order dated 28-02-2025 passed by the learned Family Court, Jalgaon, in Petition No. E-116/2022, whereby maintenance of Rs. 5000/- per month was granted to the respondent from the date of filing the petition.
2. Heard the learned advocate for both parties and perused the impugned judgment and record.
3. At the outset, it appears that the respondent has filed a

petition under Section 125 of the Cr. P. C. against the applicant. The applicant resisted the petition. After considering the evidence on record, the learned Judge held that the applicant is liable to pay the respondent maintenance of Rs. 5000/- per month and passed the impugned judgment accordingly.

4. It is pertinent to note that the applicant does not dispute his relationship with the respondent, that the respondent is residing separately, and that he has not provided any maintenance to her. He also does not dispute that he is working in Jain Irrigation, but he contends that he is getting a salary of Rs. 18,500/-. On the other hand, the respondent claimed that he is getting a salary of Rs. 30,000/- per month and also earning money from photography.

5. Having heard the learned advocate for both parties, it appears that the applicant has challenged the impugned judgment only on the point of quantum. Thus, a short question arises before the court regarding how much maintenance the respondent is entitled to. Though the applicant in his written statement stated that he is receiving a salary of Rs. 18,500/-, he has not produced any document on record in that regard. In fact, it was incumbent on him to produce the documents of a salary slip or a salary certificate before the court, as the same is within his knowledge and as per section 106 of the Indian Evidence Act, it is incumbent on the applicant to produce the

salary slip or certificate or any document showing his income. But he failed to produce the same, which leads to drawing an adverse inference that he is earning more salary than he has claimed. On the other hand, the respondent categorically stated and deposed that the applicant is receiving a salary of Rs. 30,000/- per month. The applicant does not categorically deny the averments in the application, but vaguely stated that he did not receive a salary of Rs. 30,000/-.

6. It is pertinent to note 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.

7. I have gone through the judgment. It appears that the learned Judge dealt with and discussed the applicant's income in paras 20 and 21, and held that the applicant is serving in a private company and, therefore, can pay the maintenance amount of Rs. 5000/- per month to the respondents.

8. It is pertinent to note that the applicant does not dispute that he is an able-bodied person and serving with Jain Irrigation.

Therefore, in my view, the applicant has sufficient means of income to pay maintenance to the respondents. Similarly, the respondent has to live her life according to her husband's living standards.

9. Thus, perusing the impugned judgment, it appears that the applicant failed to maintain the respondent when he had sufficient income to maintain her. On the contrary, he failed to show that he does not have sufficient means of income, or that the findings recorded by the learned Judge are illegal, perverse, or subject to errors.

10. *Per contra*, it seems that findings recorded by the learned Judge are based on a proper appreciation of the evidence and are just and proper. Hence, I do not find any substance in the contention of the learned advocate for the applicant in that regard.

11. Consequently, the criminal application being devoid of merit stands dismissed. No order as to costs.

12. Needless to clarify, the applicant is directed to deposit the entire arrears of maintenance amount in the learned Family Court within eight weeks from today, failing which, the learned Family Court shall take appropriate steps to comply with this order.

[ABHAY J. MANTRI, J.]