



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 254 OF 2025
WITH
CRIMINAL APPLICATION NO. 3105 OF 2025

Shahebaz Khan Sarwar Hayat Khan
@ Naim Khan

..APPLICANT

VERSUS

Fatema Tarannum Shahebaz Khan and Another

..RESPONDENTS

....
Mr. Hasrat Khan Z.K. Pathan, Advocate for the applicant

....

CORAM : ABHAY J. MANTRI, J.
DATE : 20th SEPTEMBER, 2025

ORAL JUDGMENT:

1. Heard finally at the admission stage.
2. The applicant has preferred the revision application challenging the judgment and order dated 04th July, 2025, passed by the learned Principal Judge of the Family Court, Aurangabad, in Petition No. E-280 of 2023 whereby the applicant-husband is directed to pay maintenance to Respondent No.1 – wife and Respondent No.2 – son of Rs. 5,000/- per month each from the date of filing the petition.
3. At the outset, it appears that the respondents, being the wife and son of the applicant, filed an application for the grant of maintenance under Section 125 of the Cr. P. C. against the applicant. The learned Judge, after

considering the evidence on record, held that the applicant is liable to pay maintenance of Rs. 5,000/- each per month to the respondents from the date of the application and accordingly passed the impugned order.

4. It is pertinent to note that the applicant is not disputing his relationship with the respondents, i.e. Respondent No.1, as is his wife, and Respondent No.2, as is his son. Similarly, he does not dispute the fact that he is liable to maintain the respondents. His contention is only that he does not have sufficient means to maintain the respondents. He further argued that the learned Family Court has neither considered those facts nor appreciated the material on record in its proper perspective, and erred in holding to grant maintenance of Rs. 5,000/- per month to each respondent.

5. He further drew my attention to the relieving-cum-experience letter annexed with the petition (pg.no.40) and submitted that the applicant has been jobless since July 2022. Similarly, due to the filing of the criminal case against him, nobody is giving him a job, and therefore, he is unable to earn money. As such, he urged setting aside the impugned judgment and order.

6. Having considered the submissions of learned counsel for the applicant, as well as after going through the impugned judgment and record, it is evident that the applicant is not disputing that he is liable to pay the maintenance to the respondents. Similarly, the relieving-cum-experience letter produced on record indicates that he was earning an amount of Rs.

18,000/- per month. It is not disputed that the applicant is a graduate and an able-bodied person who can earn money. However, the applicant has not adduced cogent and reliable evidence to show that he is unable to earn money or maintain the respondents. The learned Judge while considering the aspect of the income of the applicant in paragraph no.8 of the impugned judgment has dealt with the material on record and held that in absence of the income proof of the applicant, it was necessary to grant maintenance of Rs.5,000/- to the respondents considering basic needs of them for food, clothing, medical expenses, etc. and further needs for the son i.e. nurturing, clothing and health care, and therefore, granted maintenance. However, learned counsel for the applicant failed to point out that the said finding is manifestly perverse. Moreover, nothing perceptible shows that the order is a sanctuary of error. In fact, the order is passed on proper appreciation of evidence. It is pertinent to note that it is an obligation of the husband to maintain his wife and children. It is not permitted for him to plead that he is unable to maintain them due to financial constraints, as long as he is capable of earning. It is to be noted that the husband is duty-bound to maintain his wife and son, and for their day-to-day livelihood, he is duty-bound to provide a maintenance amount to his wife and son to live their life as per his status. In such an eventuality, it is necessary to grant maintenance to them. *Besides*, judicial notes can be taken that there is a rise in the prices of essential commodities. Therefore, the maintenance amount granted to the respondents

also appears to be too meagre to satisfy their daily needs.

7. Apart from that, it is apparent that though the applicant appeared in the matter, he has not examined himself and filed the evidence closing pursis. He has neither entered into the witness box nor denied the contentions of the affidavi as well as the evidence of Respondent No.1. Had it been the fact that he is jobless and not earning any amount, then certainly he would have entered the witness box and depose the same and also denied the contentions of Respondent No.1. But non-entering into the witness box itself denotes that the applicant is not disputing the contentions and evidence of Respondent No.1. Therefore, there is no reason to disbelieve her contentions.

8. 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 and son. Undoubtedly, the wife and son do not reside with the husband, and the husband does not pay them anything for their maintenance. This itself is sufficient to grant maintenance to them.

9. Thus, on perusal of the record and the impugned order, it appears that the applicant has failed to maintain the respondents when he has

sufficient means to maintain them. As such, the order passed by the learned Judge appears just and proper. Hence, I do not find substance in the contentions of learned counsel for the applicant to interfere in the impugned judgment and order

10. As a result, the revision application being devoid of merit, stands dismissed. No order as to costs. Inform the order to the learned Family Court.

11. In view of the dismissal of the revision application, nothing survives in the criminal application; hence, the same stands disposed of accordingly.

(ABHAY J. MANTRI, J.)

SSD