



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

59 CRIMINAL REVISION APPLICATION NO. 240 OF 2024

APARNA NIVRUTTI NILESH GATTHAWAR

VERSUS

NIVRUTTI @ NILESH BALAJI GATTHAWAR

...

Mr. Sushant C. Yeramwar – Advocate for Applicant

Mr. S.C. Bhosale – Advocate for Respondent

...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 29.09.2025

PER COURT :

1. Heard the learned Counsel appearing for the parties at length.
2. The applicant has challenged the order dated 20.07.2024 passed by the learned Judge, Family Court, Parbhani, below Exh.5 in Petition No.154 of 2023, rejecting the interim application filed by the applicant–wife under Section 125 of the Code of Criminal Procedure, on the ground that the period of cohabitation between the parties was of a very short duration. The marriage between the applicant and respondent was solemnized on 07.02.2023 as per Hindu rites and customs. After marriage, the applicant went to matrimonial home and was treated well initially for a brief period. Thereafter, in–laws started ill treating and eventually, the applicant was driven out of the matrimonial home by the respondent in–laws on 14.05.2023. After failure of several attempts at mediation, the applicant filed proceedings under Section 125 of Code of

Criminal Procedure seeking maintenance before the Family Court, Parbhani.

3. The learned Family Judge considering the short period of cohabitation and separation between the parties, observed that the applicant failed to discharge her matrimonial obligations and inferred that applicant voluntarily left matrimonial home and accordingly, passed the order under challenge.

4. In support of his submissions, learned Counsel for the applicant placed reliance on the judgment of the Hon'ble Apex Court in **Rajensh Vs. Neha and Anr.**, (2021) 2 SCC 324, paragraph 32 thereof :

32. Chapter IX of the Code of Criminal Procedure, 1973 provides for maintenance of wife, children and parents in a summary proceeding. Maintenance under Section 125 CrPC may be claimed by a person irrespective of the religious community to which they belong. The purpose and object of Section 125 CrPC is to provide immediate relief to an applicant. An application under Section 125 CrPC is predicated on two conditions : (i) the husband has sufficient means; and (ii) "neglects" to maintain his wife, who is unable to maintain herself. In such a case, the husband may be directed by the Magistrate to pay such monthly sum to the wife, as deemed fit. Maintenance is awarded on the basis of the financial capacity of the husband and other relevant factors.

5. Learned Counsel for the respondent supported the order under challenge and prayed for dismissal of the application.

6. On perusal of the record, the finding rendered by the Courts below is premised on the observation that the period of cohabitation was very brief, however, same cannot be reason to deny maintenance. Nevertheless, the Family Court has also rendered a finding that the applicant has left the matrimonial home on own accord in absence of any material to that effect.

7. The conditions i.e. (i) Respondent has sufficient means to maintain the applicant and (ii) Respondent has neglected to maintain the wife, are to be considered while deciding the claim for interim maintenance. The Family Court has completely ignored the aforesaid recognized conditions, to claim maintenance by the applicant – wife in the wake of verdict by the Hon'ble Apex Court in case of **Rajnesh** (*supra*). Resultantly, the order under challenge warrant interference by this Court.

8. In view of the above, the Criminal Revision Application is partly allowed. The order dated 20.07.2024 passed by the learned Judge, Family Court, Parbhani, below Exh.5 in Petition No.154 of 2023, is quashed and set aside.

9. The proceedings are remitted to the Family Court, Parbhani, for fresh consideration of the applicant's entitlement for interim maintenance.

10. The litigating parties are directed to appear before the Family Court

on 13.10.2025. The Family Court to consider the application on its own merits and decide the same as expeditiously as possible, in accordance with law, in any case, within six (6) weeks from today.

11. With the aforesaid observations, the application stands disposed of.

[SACHIN S. DESHMUKH]
JUDGE

Pooja Kale/