



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

**920 CRIMINAL REVISION APPLICATION NO. 98 OF 2025**

Kailas Pandit Nikumbhe/Nikam,  
Age : 53 years, Occupation : Labour,  
R/o : Damsherpada, Majgaon Road,  
Thalner, Tq. Shirpur Dist. Dhule.

... APPLICANT

**VERSUS**

Mrs. Usha @ Chhaya Kailas Nikumbhe/Nikam,  
Age : 47 years, Occupation : Household,  
C/o Shenpadu Shankar Mahire,  
R/o : Plot No. 123, Jorawar Ali Society,  
Near Mahadeo Temple, Behind Vidhyawardhini  
College, Sakri Road, Dhule Tq. & District Dhule.

...RESPONDENT

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Advocate for Applicant : Mr. Mali Amol Sudam  
Advocate for the Respondent : Mr. Dhananjay Patil (Appointed through  
the Legal Aid)

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**CORAM : ABHAY J. MANTRI, J.**

**DATE : 19.09.2025.**

**ORAL JUDGMENT :**

1. With the consent of the parties heard finally, at the stage of the admission.
2. The applicant/husband has preferred this Criminal Revision Application, challenging the judgment and order dated 06.12.2019, passed by the learned Judge of the Family Court, Dhule, in Petition E-

No. 20 of 2019, whereby, granted maintenance of Rs. 6,000/- p.m. to the respondent, from the date of filing of the application.

3. Heard the learned Advocate for the applicant and respondent and perused the impugned judgment and record.

4. It is pertinent to note that the applicant is not disputing his relationship with the respondent; however, he is challenging the impugned judgment and order only on the ground of the quantum of the maintenance amount.

5. At the outset, it appears that the respondent, being the wife of the applicant, has filed an application for the grant of maintenance under Section 125 of the Code of Criminal Procedure against the applicant. The learned judge, after considering the record, granted maintenance of Rs. 6,000/- p.m. to the respondent and passed the impugned order accordingly.

6. The learned advocate for the applicant vehemently contended that no summons was served on him, nor was he given an opportunity to contest the matter. Without hearing him, the learned judge passed the impugned judgment and order. Therefore, he urged that the matter be remanded to the learned Judge of the Family Court to give the applicant an opportunity to adduce the evidence.

7. However, on perusal of the impugned judgment and order, it appears that in paragraph No. 7, the learned judge has observed that

notice was served on the applicant, but he chose to remain absent; therefore, the matter was proceeded ex parte against him. The said observation itself indicates that notice was served on the applicant, and despite the said service of notice, he chose to remain absent and did not contest the matter; therefore, the matter proceeded ex parte against him. In such an eventuality, I do not find any substance in the contention of the applicant in that regard.

8. Secondly, the learned Advocate for the applicant strenuously argued that the learned judge has not considered the applicant's income in its proper perspective and awarded excessive maintenance of Rs. 6,000/- p.m. to the respondent. However, on perusal of paragraphs Nos. 10 to 15, it is evident that the learned Judge has categorically observed that the applicant-husband has not denied the testimony of the wife; therefore held that no reason to disbelieve her testimony. The earning capacity of the applicant was also considered in detail. Considering the same, the learned Judge has observed that the respondent is unable to maintain herself, and the applicant has sufficient means of income to maintain her. In paragraph No. 13, the judge has observed that while granting the maintenance allowance, the Court has to consider the status of the parties, their respective needs, the husband's capacity to pay the maintenance and having regard to the reasonable expenses for his own maintenance.

9. In paragraph No. 15, the learned Judge observed that it is a settled law that the Court has to consider the probable aspects of the case while granting maintenance. Therefore, after discussing the material/evidence on record, the learned Judge concluded that the applicant is liable to pay the maintenance amount of Rs. 6,000/—p.m. to the respondent as he was earning Rs. 30,000/—to 40,000/—p.m. Therefore, maintenance was granted.

10. Thus, it appears from the impugned judgment and order that the learned Judge, after considering the material on record and after discussing the facts and evidence of the case on record, has rightly granted maintenance of Rs. 6,000/- p.m. to the respondent. The order passed by the learned judge appears to be a proper appreciation of the evidence on record; however, the applicant failed to point out that he does not have sufficient means to pay maintenance to the respondent or that the findings recorded by the learned Judge are illegal and perverse, thus, there is no need to interfere in the present revision application.

11. The learned Advocate for the applicant failed to point out that the findings recorded by the learned Judge are illegal and perverse, or that there is a need for interference at the hands of this Court under the revisionary jurisdiction. Moreover, needless to say, the order of the learned Judge is not “manifestly perverse.” Nothing is perceptible to show that the order is a sanctuary of errors. In fact, the order is passed

on proper appreciation of evidence. It is worth noting that it is an obligation of the husband to maintain his wife, and the law cannot permit him to plead that he is unable to maintain his wife due to financial constraint, despite the fact that he is capable of earning. *Moreover*, the judicial note can be taken that nowadays there is a rise in the prices of essential commodities; therefore, the maintenance granted to the respondent also appears too meagre to satisfy her daily needs. It also reflects from the record that the respondent could not engage an Advocate; therefore, the learned Advocate, Mr. Dhananjay Patil, was appointed on her behalf from the Legal Aid Panel.

12. Thus, on perusal of the record and impugned order, it is apparent that the applicant is not disputing that the respondent is his wife; however, he failed to maintain her when he had sufficient means to maintain her. Similarly, even though two names are mentioned in the original application, it does not mean that no notice was served on the applicant in his name, as the observations in the judgment indicate that notice was served on the applicant, despite the fact that he remained absent. Apart from that, the learned Advocate for the applicant failed to point out that the impugned judgment and order are manifestly perverse. On the contrary, it is apparent that the order passed by the learned Judge is just and proper. Hence, I do not find any substance in the contention of the learned Advocate for the applicant in

that regard to interfere in the impugned judgment and order under the revisionary jurisdiction.

13. At this stage, the learned Advocate for the applicant submits that on 30.07.2024 the applicant has filed an application before the trial Court, however, the learned Advocate for the applicant failed to point out under which provision the said application was filed or what was his prayer by the said application and therefore, in my view, the filing of the said application is not helpful to the applicant while determining the question in dispute in the present application.

14. As a result, the application is bereft of merits and stands dismissed.

15. No order as to the costs.

16. The stay granted by order dated 09.04.2025 is vacated.

17. The fees of the learned Advocate appointed through the Legal Services Authorities shall be quantified as per the rule.

18. Inform the order to the learned Family Court accordingly.

19. As a sequel to the above, the applicant is directed to deposit the arrears of the maintenance in the Family Court within six weeks from today.

( ABHAY J. MANTRI, J. )