



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

**CRIMINAL APPLICATION NO. 3359 OF 2023
IN REVNST/9260/2023**

. Abdul Hamid s/o Abdul Razzak Motiwala
Age: 51 years, Occu.: Business,
R/o. House No.402, Navkar Apartment,
Tin Batti, Kazi Maidan, Gopipura,
Surat – 395003 (Gujrat State)Applicant
(Orig. Respondent)

Versus

1. Nusrat Bano w/o Abdul Hamid Motiwala
Age: 47 years, Occu.: Household,
2. Abdul Gaffar s/o Abdul Hamid Motiwala
Age: 10 years, U/G of Mother Resp.No.1,
Both R/o. C/o.Md.Haroon Hingora,
Kacchi Bazar, Naalsahab Masjid,
Parbhani, Tq. & Dist.Parbhani.Respondents
(Orig. Applicants)

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Advocate for Applicant : Mr. Hamzakhan I. Pathan
Respondent Nos.1 and 2 served

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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 18 DECEMBER, 2025
PRONOUNCED ON : 19 DECEMBER, 2025**

ORDER :-

1. Instant application is for condonation of delay of 470 days caused in filing criminal revision application for taking exception to judgment and order dated 12-11-2021 passed by learned Judge, Family Court, Parbhani in Criminal M.A.No.9 of 2020.

2. Learned counsel for the applicant pointed out that applicant is husband of respondent no.1 and father of respondent no.2. That, respondent no.1 instituted proceedings under Section 125 of the Code of Criminal Procedure (Cr.P.C.) vide Criminal Misc. Application No.285 of 2014 seeking maintenance for herself as well as her son and the same was granted by learned Judicial Magistrate First Class, (Court No.1), Parbhani by its Judgment and order dated 21-01-2016. He further pointed out that subsequently, respondent no.1 filed another proceeding but under Section 127 of the Cr.P.C. seeking enhancement in compensation.

3. It is further submitted that applicant is resident of Gujarat State and there was communication gap between him and his Advocate. That, he was not made aware of the impugned judgment and order dated 12-11-2021 passed by learned Judge, Family Court, Parbhani in Criminal M.A.No.9 of 2020, which was filed for enhancement. That, on 16-07-2023, when contact was developed, he learnt that “no instruction purshis” has been tendered by his Advocate. Thereafter, steps were taken to apply for certified copy and on receipt of the same on 31-07-2023, revision is sought to be filed questioning the judgment and order dated 12-11-2021 passed

by the learned Judge, Family Court, Parbhani, however, in above process, delay has occurred to the above extent, which according to learned counsel, is unintentional and is rather for bonafide reasons and hence, in the interest of justice, the same is sought to be condoned.

4. In spite of notice of this Court being served on the respondents, none appeared to contest the application for delay condonation. This Court, after granting sufficient time, posted the matter for orders and took up the matter for hearing.

5. After hearing above submissions, here, there is matrimonial dispute between applicant and respondent no.1 and respondent no.1 seems to have instituted proceedings under Section 125 of the Cr.P.C. for maintenance and thereafter, respondent no.1 has instituted proceedings under Section 127 of the Cr.P.C. for enhancement in maintenance and has succeeded in the same. Applicant husband states on oath that he was in Gujarat at the relevant time. His address in the petition is also of Gujarat. Therefore, reasons put forth seems to be plausible and as there is no contest, application deserves to be allowed. Accordingly, following order is passed :

ORDER

- (i) Criminal Application is allowed.
- (ii) Delay of 470 days caused in filing criminal revision application is condoned.
- (iii) Registry to verify and register criminal revision application.

(ABHAY S. WAGHWASE)
JUDGE