



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

**CRIMINAL REVISION APPLICATION NO. 364 OF 2019**

Sudhirrao Sundarrao Pawar,  
Aged 40 years, Occu: Service  
R/o Chhatrapati Niwas, Saraf Nagar,  
Old Jalna, Tq. & Dist. Jalna.

... **Applicant  
Orig.  
Respondent**

**VERSUS**

1. Shilpa w/o Sudhirrao Pawar,  
Age 38 years, Occu: Household

2. Kum. Rajnandani d/o Sudhirrao Pawar,  
Age 10 years, Occu: Nil  
Minor, through Respondent no.1 Mother  
Both r/o C/o Haribhau Ghare,  
Income Tax Colony, Old Jalna  
Tq. & Dist. Jalna

... **Respondents  
(Orig.  
Applicants )**

Mr. S. K. Chavan, Advocate for the applicant-Husband  
Mr. B. A. Dhengle, Advocate for the respondents

**CORAM : Y. G. KHOBRAGADE, J.**

**DATE : 11.11.2025**

**JUDGMENT**

1. Heard at length Mr. S. K. Chavan, the learned counsel appearing for the applicant-Husband and Mr. B. A. Dhengle, the learned counsel appearing for the respondents wife and minor daughter.

2. By the present revision, the applicant, invoking jurisdiction of this Court under Section 397 of the Code of Criminal Procedure, takes

exception to the judgment and order dated 23.10.2019, passed by the learned Family Court, Jalna, in Criminal M.A. No.07 of 2019 (old. Cri. M.A. No. 91 of 2018), whereby enhanced the amount of monthly maintenance from Rs.2000/- to Rs.10,000/- per month.

3. The present applicant/husband is original respondent and the present respondents are original applicants in Criminal M.A. No.07 of 2019 (old. Cri. M.A. No. 91 of 2018). Respondent No. 1 is wife and Respondent No.2 is the minor daughter of the present revision applicant. For the sake of brevity herein parties to the present revision will be referred in their original capacity as applicants and non-applicant.

4. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the record. It is not in dispute that the applicant No. 1 is wife of the Non-applicant and applicant No.2 is the minor daughter of the non-applicant. On face of the record it appears that, in earlier round of litigation, the applicants had filed Criminal M.A. No. 508 of 2012 under section 125 of the Criminal Procedure Code against the applicant husband and prayed for maintenance for themselves. After conclusion of the trial, on 05.12.2014, the learned 3rd Judicial Magistrate First Class, Jalna had passed the judgment and order in Criminal M.A. No. 508 of 2012 and was granted maintenance of Rs.2000/- each to the original applicants/respondents. Since, the amount of maintenance was

not adequate and was not sufficient to meet daily needs, the applicants instituted Criminal M.A. No.07 of 2019 (old. Cri. M.A. No. 91 of 2018) before the learned Family Court, Jalna and prayed for enhancement of maintenance. It is also not in dispute that when Criminal M.A. No. 508 of 2012 was instituted on 18.09.2012, the applicant No.2 was three and half years old and by passage of time, applicant No.2 attained the age of 10 years and was studying in 3rd Standard in M.S.Jain English Medium School, Jalna. Therefore, considering school expenses and increased of prices of essential commodities, the maintenance amount of Rs.2000/- each granted under order dated 05.12.2014 was not sufficient. Hence, prayed enhancement of maintenance.

5. According to applicant No.1, her husband/non-applicant is working as Branch Recovery Manager with Chola Mandalam Finance & Investment Company, Jalna and drawing income of Rs.35,000/- to 45,000/- per month. So also, the non-applicant has constructed a new house at CTS No.11404/82 at Jalna and let out the said house and earning income of Rs.15,000/-per month towards rent. Further, her husband is earning income by hiring out his Maruti Wagon R Car. Besides this, her husband is drawing handsome income from the agricultural land. Therefore, she prayed for enhancement of maintenance from Rs.2000/-, which was granted by the learned JMFC on 05.12.2014 in Cri.M.A. No. 508/2012.

6. The applicant no. 1 contended that, in the year 2012 to 2014, she was staying with her father but on her brother got married and accommodation at her father's house was falling short. Therefore, she was required to take house on rent. So also, more expenses is required for education purpose of the applicant No.2 minor daughter. It is further canvassed that, by passage of time, salary of her husband-non applicant is increased to the tune of Rs.35,000/- to 45,000/- and no one is dependent upon the income of her husband, hence, prayed for enhancement of maintenance.

7. The non-applicant husband filed written statement at Exh.10 and resisted the claim of the applicants for enhancement of maintenance. However, the non-applicant husband has not denied relationship between him and the applicants. The defence of the non-applicant husband is that at the time of marriage, his wife- respondent No.1 was working in a renowned college as a Lecturer on clock hour basis but after marriage she conceived and left the job of lectureship. He further claimed that, behaviour of his wife was abnormal and therefore, she was taking treatment of Dr. Barale. He has no permanent job and income source. He is working with a private company on temporary basis. On the other hand, his wife- Respondent No.1 is taking private tuition and earning handsome amount. He is paying school fees of his minor daughter and bearing education expenses, hence, prayed for rejection of the application.

8. Needless to say that, during pendency of Criminal M.A. No.7 of 2019, the matter was referred to Mediator, however, the mediation was not successful and ultimately on conclusion of trial, the learned Family Court passed the impugned order holding that, the non-applicant husband is working as a Branch Manager in Chola Mandalam Finance & Investment Company, Branch at Jalna and drawing salary of Rs. 38,000/- per month as per salary slips Exh. 42 and 43. Therefore, considering the income as well as other sources of income of the non-applicant, the learned Family Court, by the impugned order dated 23.10.2019, enhanced the amount of maintenance to the tune of Rs.10,000/- each per month from Rs.2000/-each per month granted by the learned JMFC under order dated 05.12.2014 in Criminal M.A. No. 508 of 2012.

9. The learned counsel appearing for the revision applicant/ori. Non-applicant husband canvassed in vehemence that, the learned Family Court failed to consider the fact that the non-applicant husband has no permanent source of income as alleged by his wife. The Non-applicant examined Witness No.4 Shri Harish Choudhary, the Manager of Chola Mandalam Finance & Investment Company, branch at Jalna, who deposed that, the non-applicant is not working as a permanent employee. However, the learned family court misconceived with the fact that there is change in circumstances while increasing amount of maintenance to

Rs.10,000/- each per month from Rs.2000/ and learned trial Court erroneously recorded the findings while enhancing maintenance, hence prayed to quash and set aside the same.

10. Learned counsel appearing for the revision applicant/ori. Non-applicant further canvassed that as per the evidence brought on record, the non-applicant husband drawing monthly salary of Rs.38,000/- per month which comes to Rs.4,56,000/- per year. However, the non-applicant has obtained loan and he require to pay monthly installment of Rs.8958/- which comes to Rs.1,07,496/- per year. Further, he purchased a car on loan and paying monthly installment of Rs.5036/- which comes to Rs.60,432/- per year. Besides this, the non-applicant paying premium of three Insurance policies of Rs.57,241/-, Rs.58,529/- and Rs.25,000/- total Rs.1,40,770/- per year. Therefore, the revision applicant/ori. non-applicant requires to incur amount of Rs.3,08,302/- every year towards personal loan, car loan and insurance premium, whereas, he drawing yearly salary of Rs.4,56,000/- and therefore, after deducing yearly expenses, only Rs. 1,47,698/- remains with him for his personal expenses. Therefore, he is unable to pay enhanced amount of maintenance, hence, prayed to quash and set aside the impugned judgment and order. To buttress these submissions, the learned counsel for the ori. Non-applicant relied on case of **Kalyan Dey Chowdhury vs. Rita Dey Chowdhury (2017) 14 SCC 200.**

11. Per contra, learned counsel appearing for the respondents/original applicants supported findings recorded by the learned Family Court in the impugned order. The learned counsel for the applicants canvassed that, on 05.12.2014, the learned JMFC, Jalna passed an order in Criminal M.A. No.508 of 2012 and had directed the ori. Non-applicant/husband to pay monthly maintenance of Rs.2000/- each, however, by passage of time, the prices of essential commodities as well as educational expenses of the minor daughter are increased and respondent No.1 wife has no independent source of income to meet daily needs. Therefore, considering the increased of prices of essential commodities as well as increase of education expenses of Respondent no. 2 minor and income of the Non-applicant husband, the learned Family Court passed the impugned order and enhanced maintenance to the tune of Rs.10,000/- each from Rs.2000/-, which is just and proper. Therefore, findings recorded by the trial court are just, proper and substantial grounds are set out to interfere with said findings. Hence, prayed for dismissal of the revision.

12. It is further canvassed on behalf of ori. applicants that, though the non-applicant husband claimed that, he has been paying Rs. 1,07,496/- per year towards personal loan, Rs.60,432/- per year towards Car loan and Rs.1,40,770/- per year towards premium of three Insurance Policies, however, these are the ancillary expenses of the non-applicant

husband and same are not proved during the course of trial. Therefore, said expenses can not be considered first time in revision.

13. Mr. B. A. Dhengle, the learned counsel appearing for the respondents/ori. Applicants further canvassed that, while ascertaining enhancement of maintenance, the learned Family Court considered annual income of the applicant/ori. Non-applicant from salary as well as other income and increase of prices of essential commodities, educational expenses of minor daughter and the expenses required to meet their daily needs. Therefore, the impugned order is just and proper, hence, prayed for dismissal of the revision.

14. Needless to say that, the revision applicant-husband produced statement of EMI of personal loan at Exh.E and statement of EMI of Car loan at Exh.F. However, these are ancillary expenses of facilities availed by the non-applicant husband for his own benefit and said statements not at all proved during course of trial. Therefore, same can not be considered first time in revision. Nonetheless, said ancillary expenses of facilities are availed by the non applicant-husband for his own benefit, hence, it cannot be considered while ascertaining quantum of maintenance. Needless to say that, the insurance polices, which have been obtained by the revision applicant and paying yearly premiums does not preclude the applicants-

wife and minor daughter from claiming maintenance to meet their daily needs as well as educational expenses.

15. The revision applicant has not denied relations between him and the present respondents as wife and minor daughter. It is a matter of record that, on 05.12.2014, the learned JMFC, Jalna passed judgment and order in Criminal M.A. No. 508 of 2012 and was directed the present revision applicant/ori. Non-applicant to pay Rs.2000/- each to the ori. applicants from the date of application i.e. 18.09.2012. Needless to say that at the time of filing of Criminal M. A. No. 508 of 2012, ori. Applicant No.2 minor daughter was three and half years old and she was not School going girl. However, at the time of institution of the subsequent application bearing Criminal M.A. No. 7 of 2019 under section 127 Cr.PC. for enhancement of maintenance, Ori. Applicant No.2 minor daughter was 10 years old and school going girl. It is also not disputed that, as on today, ori. Applicant no. 2 studying in 10th standard. The revision applicant-husband has not denied that at the time of institution of application under section 127 Cr.PC., the ori. applicant No.2 was 10 years old. Therefore, at the relevant time she may be studying in 4th standard and by passage of time, now she is studying in 10th Standard. It is a common knowledge that day by day prices of essential commodities are hiked as well as educational expenses, transportation charges and other expenses are also hiked to the sky.

16. During the course of trial, the applicants wife and minor daughter proved the following documents:

- (1) Certified copy of sale deed dated 23/07/2010 in respect of CTS No. 11404/82 Exh. 15,
- (2) Copy of P. R. Card bearing CTS No. 11404/82 Exh. 16,
- (3) Copy of P. R. Card CTS No. 11369/47-B Exh. 17,
- (4) copy of P. R. Card CTS No. 7419/A-1 Exh. 18,
- (5) Copies of P.R.Card bearing CTS No. 11411/34 Exh. 19, 7/12 extract of Block No. 18 situated at village Shinde Takali, Taluka Sailu Exh. 20, 7/12 extract of Block No. 19 situated at village Shinde Takali, Taluka Sailu Exh. 21, 7/12 extract of Block No. 199 situated at village Shinde Takali, Taluka Sailu Exh. 22, 7/12 extract of Block No. 203 situated at village Shinde Takali, Taluka Sailu Exh. 23, 7/12 extract of Block No. 55 situated at village Hanvadi, Taluka Partur Exh. 24, 7/12 extract of Block No. 140, 141 situated at village Lingasa, Taluka Partur Exh. 25 and 26, 7/12 extract of Block No. 55, Block No. 18, Block No. 19, Block No. 199, Block No. 203 Exh. 27 to 31 respectively. Mutation Entry No. 864 Exh. 32.
- (6) Particulars of Maruti Suzuki Wagon-R Car bearing No. MH-21-AX-0837 Exh. 33,
- (7) Birth Certificate of male child Exh. 34,
- (8) copy of judgment passed in Cri. M.A. No. 508/12 Exh. 35,
- (9) Pay Slips of the respondent for the month of April 2019 and May-2019 Exh. 42, 43,

(11) Notices given to each other along with list of documents Exh. 3, School Fees Receipts and Medical bills filed with list of documents dated 03/08/2018 for the examination of the Court.

17. It is submitted that, as on today living cost and prices of essential commodities are increased in comparison to 2014 when the learned JMFC passed the order in Criminal M. A. No. 508/2012. The respondent wife examined AW-3 Dipali, Clerk-cum-Accountant of M.S. Jain English Medium School, Jalna. AW-3 proved payment of school fees (Exh.40) which shows that the respondent wife had paid school fees of Rs.13,200/- for the academic year 2014-15, Rs.15,030/- for academic year 2015-16, Rs.16,530/- for academic year 2016-17 and Rs.15,830/- for academic year 2017-18. Besides this, an amount of Rs.7200/- was paid by the respondent wife towards transportation charges of Respondent No.2 minor daughter. Not only this, the respondent wife required to incur expenses towards rental house and to meet the other expenses for their likelihood.

18. In **Kalyan Dey Chowdhury vs. Rita Dey Chowdhury** cited *supra*, the Hon'ble Supreme Court considered the case of **Dr. Kulbhushan Kumar vs. Raj Kumari and Anr. (1970) 3 SCC 129**, wherein it has been held that 25% of the husband's net salary would be just and proper to be awarded as maintenance to the respondent-wife. The amount of permanent alimony awarded to the wife must be befitting the status of the

parties and the capacity of the spouse to pay maintenance. Maintenance is always dependent on the factual situation of the case and the court would be justified in molding the claim for maintenance passed on various factors.

19. In case in hand it is prima facie proved that, the non-applicant/husband drawing monthly salary of Rs.38,000/- per month. As per the ratio laid down in case of *Kalyan Dey Chowdhury, Supra*, the wife can be granted maintenance of 25% of her husband's income, however, said 25% of maintenance has not included the maintenance amount for minor children. Since, the Ori. Non-applicant/husband drawing monthly income of Rs. 38,000/- per month and 25% of income comes to Rs. 9500/-. Therefore, it can not be said that, the learned trial Court enhanced exorbitant amount of maintenance for the ori. applicant/wife. So also, ori. Applicant no. 2 minor studying in 10th standard in private M.S.Jain English Medium School, Jalna. Therefore, considering Educational expenses like School Fees, Books, Stationary, School Transportation charges, Medical expenses, by the impugned order, the learned trial enhanced amount of maintenance of Rs. 10,000/- from Rs. 2000/- for the ori. Applicant no. 2 minor daughter which is justifiable and no interference is called at the hands of this court to disturb said findings.

20. Needless to say that, the Non-applicant/ husband himself claimed that he is paying Rs. 1,07,496/- per year towards personal loan, Rs.60,432/- per year towards Car loan and Rs.1,40,770/- per year towards premium of three Insurance policies. Therefore, this fact itself suggests that the non-applicant husband has concealed his real income and salary with an intention to avoid payment of maintenance. Therefore, I do not find that, the ori. non-applicant/ husband has made out substantial ground to interfere with the findings recorded by the learned family Court under the impugned order. Consequently, there is no substance in the revision and the impugned order does not warrant interference at the hands of this Court.

21. In view above discussion, present Criminal Revision Application stands dismissed.

( Y. G. KHOBRADE, J. )

JPChavan