



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL REVISION APPLICATION NO.01 OF 2025

Pravin s/o Namdeo Gaikwad
Aged about 29 Years
Occupation - Business
R/o. Ghughus Road,
Ram Nagar, Padoli,
Chandrapur, Tah. and District Chandrapur

...APPLICANT

VERSUS

Smt. Ashvini w/o Pravin Gaikwad
alias Ashvini Suresh Bhoyar,
Aged about 26 years,
Occupation – Household,
R/o. C/o Suresh Shankarrao Bhoyar,
Koregaon (Yawali),
Tahsil and District Yavatmal

...NON-APPLICANT

Mr. Varun Kataria, Advocate for the applicant.
Mr. Vikrant Pandey, Advocate for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : JULY 30, 2025.

ORAL JUDGMENT :

Heard finally with the consent of learned Counsel for both
the parties.

2. By this revision application, the applicant has challenged
the judgment and order of maintenance passed by the Family Court,

Yavatmal in Petition No.E-121/2023 dated 18/09/2024 granting the maintenance @ Rs.18,000/- per month to the non-applicant as a maintenance from the date of filing of the petition and the amount of Rs.18,000/- as cost of litigation to the non-applicant.

3. The applicant and the non-applicant are the husband and wife. Their marriage was performed on 26/05/2022 at Karegaon Yawali, Taluka and District Yavatmal as per the Hindu rites and customs. After marriage she resumed cohabitation at the house of the present applicant. As per her allegation after one month of the marriage the applicant and his family members started harassing her. The applicant was also suspecting her character and asking her to bring money from her parents. She was also driven out of the house on 14/06/2023. Therefore, she lodged the report at police station Padoli, Taluka and District Chandrapur and also before Bharosa Cell. However, on 28/06/2023 when the non-applicant along with her parents had gone to the house of the present applicant at that time the present applicant refused to cohabit with her and also did not allow her to enter the house. It is further alleged that present applicant has refused and neglected to maintain her. She has no means of income. The applicant has also not made a provision for her maintenance. The applicant is the owner of 10 goods trucks and is earning Rs.10,00,000/- per month, therefore, the

applicant is having sufficient means to pay the maintenance amount to her.

4. The notice was duly served on the present applicant but his Counsel failed to appear, and therefore, without his evidence the matter was disposed of by considering the evidence of the respondent and maintenance was granted @ Rs.18,000/- per month to the present non-applicant from the date of filing of the writ petition.

5. Being aggrieved and dissatisfied with the same, present revision application is preferred on the ground that no fair opportunity was granted to the present applicant to contest the application before the Family court.

6. The ground raised is that though the applicant has engaged the Counsel but the Counsel has not attended the proceeding and the present applicant has trusted his Counsel and finally he came to know about the decision when the judgment was passed and the execution proceeding was filed against him. It is contended that as the application was not contested and on the basis of the evidence of the respondent only the amount of maintenance was granted which is exorbitant and harsh one, and therefore, the order passed by the Family Court deserves

to be quashed and set aside. Alternatively, it was prayed that the matter was remanded back to the Family Court for the disposal after giving an opportunity to the present applicant.

7. Learned Counsel for the applicant reiterated the contention and invited my attention towards the roznama and submitted that none of the date was attended by his Counsel and he was also not informed as to the date fixed before the Court, and therefore, he could not attend the proceeding and could not file the written statement and the *ex-parte* order was passed against him without considering his actual income. The amount of maintenance granted by the Family Court is excessive and harsh one and liable to be quashed and set aside.

8. Learned Counsel for the non-applicant supported the judgment of the Family Court and submitted that on the basis of the evidence and after giving sufficient opportunity to the present applicant, the order was passed, and therefore, no grounds are made out for remanding the matter back to the Family Court.

9. After hearing both the sides and after going through the entire record which is before the Court it reveals from the roznama that the notice is duly served on the present applicant. He has also engaged

the Counsel. The entire roznama shows that on none of the dates the Counsel of the present applicant was present. He has also not intimated to the present applicant as to the adducing of the evidence, and therefore, after sufficient opportunity, the evidence of the non-applicant was recorded and on the basis of the evidence the amount of maintenance was granted.

10. Learned Counsel for the applicant has rightly pointed out that in view of the observation of the Hon'ble Apex Court in the case of **Rajnish Vs Neha and another [(2021) 2 SCC 324]** the opportunity was not granted to the present applicant to adduce his evidence which is furnished on record the assets and liabilities. The non-applicant has also not filed her assets and liabilities. Only on the basis of the statement of the non-applicant, the amount of maintenance was granted which is excessive and harsh. On perusal of the impugned judgment it reveals that the Family Court has considered the evidence of the non-applicant and documentary evidence shows that the applicant is the owner of the truck. The Family Court on the basis of her oral evidence granted the maintenance @ Rs.18,000/- per month. Thus, the Family court has considered the object behind the provision under Section 125 of the Cr.P.C. and held that the object of Section 125 Code of Criminal Procedure is a measure of social justice, especially enacted to protect

women and children, falling within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution.

11. Thus, the objective of the provision, then and now, is to assist the financial assistance to the destitute wives, children, and parents who are left by their relatives. The Section 125 Code of Criminal Procedure was conceived to ameliorate the agony, anguish, and financial suffering of a woman who left her matrimonial house for the reasons provided in the provision, so that some suitable arrangements can be made by the court and she can sustain herself and also her children, if they are with her. It was the concept of subsistence, which did not necessarily mean to lead the life of an animal, feel like an unperson to be thrown away from grace, and roam for her basic maintenance somewhere else, and the wife would be entitled to lead a life in a similar manner as she would have lived in the house of her husband. Thus, the inherent and fundamental principle behind Section 125 of Code of Criminal Procedure is financial assistance to the women who suffer because of the desertion at the hands of her husband, who is compelled to live her matrimonial house. As per the law, she is entitled to lead life in similar manner as she could have in the house of her husband, and as long as she held entitled to grant of maintenance within the parameters of Section 125 of Code of Criminal Procedure describes. This aspect is

also considered by the Hon'ble Apex Court in the case of **Kiran Jyoti Maini Vs. Anish Pramod Patel [(2024) 7 SCR 942]** wherein the Hon'ble Apex Court has considered the facts as follows:

“The status of the parties is a significant factor, encompassing their social standing, lifestyle, and financial background. The reasonable needs of the wife and dependent children must be assessed, including costs for food, clothing, shelter, education, and medical expenses. The applicant’s educational and professional qualifications, as well as their employment history, play a crucial role in evaluating their potential for self-sufficiency. If the applicant has any independent source of income or owns property, this will also be taken into account to determine if it is sufficient to maintain the same standard of living experienced during the marriage. Additionally, the court considers whether the applicant had to sacrifice employment opportunities for family responsibilities, such as child-rearing or caring for elderly family members, which may have impacted their career prospects.”

12. In another decision in the case of **Vinny Paramvir Parmar Vs. Paramvir Parmar (2011) 13 SCC 112** wherein the Hon'ble Apex Court held that there cannot be a fixed formula or a straitjacket rubric for fixing the amount of permanent alimony and only broad principles can be laid down. The question of maintenance is subjective to each case and depends on various factors and circumstances as presented in individual cases. This Court in the above judgment stated that the Courts shall consider the following broad factors while determining permanent

alimony – income and properties of both the parties respectively, conduct of the parties, status, social and financial, of the parties, their respective personal needs, capacity and duty to maintain others dependant on them, husband's own expenses, wife's comfort considering her status and the mode of life she was used to during the subsistence of the marriage, among other supplementary factors.

13. In the case of Rajnish Vs Neha and another (supra) the Hon'ble Apex Court emphasises that there is no fixed formula for calculating maintenance amount; instead, it should be based on a balanced consideration of various factors. These factors include an illustrative but are not limited or exhaustive. They are as under:

- i. Status of the parties, social and financial.
- ii. Reasonable needs of the wife and dependent children.
- iii. Qualifications and employment status of the parties.
- iv. Independent income or assets owned by the parties.
- v. Maintain standard of living as in the matrimonial home.
- vi. Any employment sacrifices made for family responsibilities.
- vii. Reasonable litigation costs for a non-working wife.

- viii. Financial capacity of husband, his income, maintenance obligations, and liabilities.

14. In the light of the above said factors, it is to be seen whether the maintenance is granted to the present applicant by considering all these factors. As far as the opportunity to the present applicant is concerned in the interest of justice which requires to be given as the matter was proceeded *ex-parte* against him. He has engaged the Counsel but the Counsel has not informed him and the opportunity was not granted to him to furnish on record the assets and liabilities as well as to adduce the evidence. Thus, considering the aspect of natural justice the opportunity of hearing is to be granted to the present applicant. At the same time, considering the fact that the applicant has not made any provision towards the maintenance while remanding back the matter to the Family Court, the applicant shall deposit the amount which is granted to the present non-applicant by the Family Court. The applicant shall continue to pay such amount till the disposal of the main application. Accordingly, I proceed to pass the following order :

- (i) The revision application is allowed.
- (ii) The Petition No.E-121/2023 is remanded back to the Family Court, Yavatmal for disposal.

(iii) During the pendency of the application before the Family Court, Yavatmal the applicant shall continue to pay the maintenance amount @ Rs.18,000/- to the non-applicant on or before 10th of every month.

(iv) The Family Court, Yavatmal shall give an opportunity to the applicant to adduce the evidence as well as the applicant shall file his assets and liabilities as well as non-applicant also shall file assets and liabilities before the Family Court.

(v) The Family Court shall consider the evidence which is adduced by both the parties.

(vi) Both the parties shall appear before the Family Court, Yavatmal on 11/08/2025 at 11.00 AM.

15. The revision application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*