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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.185 OF 2025

Pandurang s/o. Vitthal Badkhal,
Aged 46 Years, Occupation : Service,
R/o. Karanwadi, Post. Nawargaon,
Taluka Maregaon, District Yavatmal.

.... PETITIONER

// VERSUS //

1. Sau. Sushma w/o Pandurang Badkhal,
Aged about 38 Years,
Occupation : Housewife.

2. Master Kunal Pandurang Badkhal,
Aged about 16 Years,
Occupation : Education – being minor
represented through natural guardian
mother – Sushma Pandurang Badkhal.
Both R/o. C/o. Smt. Kalpana Ramesh
Bonde at village Patala,

Taluka Bhadrawati, District Chandrapur. **.... RESPONDENTS**

Mr. S. N. Singh, Counsel for the petitioner.

Ms. Anshula Paunikar, Counsel h/f Mr. S. V. Sirpurkar,
Counsel for the respondents.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 10.07.2025

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith.

2. Heard finally by the consent of the parties.

3. By this writ petition, the petitioner has challenged the
order passed by the learned Revisional Court, Warora in Criminal
Revision Application No.10/2022 by which amount of maintenance

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is enhanced by the Revisional Court in Criminal Revision No.10/2022.

4. Brief facts which are necessary for the disposal of the writ petition are as follows:

The petitioner and the respondent No.1 are the husband and wife. Their marriage was performed on 20.06.2007 at Wani. After marriage, she resumed the cohabitation at the house of the present petitioner. From the said wedlock, she begotten the respondent No.2 son. As per her contention, after marriage for eight months, she was treated well and subsequent to that the present petitioner started suspecting her character and also demanded the amount of Rs.1,50,000/- for purchasing the agriculture field. Due to the harassment at the hands of the present petitioner, she was constrained to leave the matrimonial house along with her son and took shelter at the house of her parents. Thereafter, she filed an application for grant of maintenance bearing No.26/2012. The said maintenance application was contested by the present petitioner. After hearing both the sides and on perusal of the evidence, the learned Judicial Magistrate First Class, Bhadrawati granted maintenance to the present respondent No.1 at the rate of Rs.5,000/- per month and to the respondent No.2 at the rate of Rs.3,000/- per month.

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5. Subsequent to the above said order, the respondent filed an application under Section 127 of the Code of Criminal Procedure for enhancement of the maintenance amount on the ground that the respondent No.2 is studying in a public school and she has to incur the expenses towards his education, tuition fee, his clothes and his maintenance as well as on her maintenance. Considering the evidence adduced before the Court, the learned Judicial Magistrate First Class enhanced the maintenance at the rate of Rs.6,000/- to the respondent No.1 and at the rate of Rs.3,500/- to the respondent No.2.

6. Being aggrieved with the same, the present respondent preferred a Criminal Revision Application No.10/2022 challenging the order of enhancement passed by the learned Judicial Magistrate First Class, Bhadravati. The learned Additional Sessions Judge, Warora considered the entire evidence and enhanced the maintenance amount of Rs.10,000/- per month to the respondent No.1 and Rs.7,000/- per month to the respondent No.2 from the date of filing of the Misc. Criminal Application No.214/2017 which was filed under Section 127 of the Code of Criminal Procedure.

7. Being aggrieved and dissatisfied with the same, present writ petition was filed by the petitioner on the ground that the learned Sessions Judge without any material before it, erroneously enhanced the amount of maintenance, without considering the fact

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that the present petitioner also shouldering the responsibility of his parents as well as he has to incur the expenses towards himself also and there is no increase in his salary.

8. Heard learned Counsel for the petitioner, who reiterated the said contentions and submitted that the present petitioner was drawing a salary of Rs.31,394/- as he is serving as a Shilp Nideshak at Principal Industrial Training Center at Pandharkawada. In the said amount, he has to maintain himself as well as he is also shouldering the responsibility of his parents and therefore, the order passed by the learned Sessions Judge granting maintenance at the rate of Rs.10,000/- per month and at the rate of Rs.7,000/- per month is excessive, exorbitant and harsh one.

9. Per contra, learned Counsel for the respondents invited my attention towards the order passed by the learned Sessions Judge wherein it is specifically observed that there are documents on record to show that the petitioner at the relevant time was earning Rs.54,586/-. Learned Counsel for the respondents submitted that after application of the 7th Pay Commission, his salary may have risen and the respondent has to incur the expenses towards the education of her son, as well as towards the expenses of clothing, shelter and maintenance of her son. She submitted that it is well settled that the respondent has to live the life as per the status of her husband. Thus, the order passed by the Revisional

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Court granting maintenance at the rate of Rs.10,000/- per month and Rs.7,000/- per month is a proper and legal one and no interference is called for.

10. On considering the rival submissions of both parties, perused the impugned judgment, as well as the evidence on record, the Revisional Court specifically considered that there is a hike in the salary of the present petitioner and observed that the documents on record shows that the petitioner at the relevant time was earning Rs.54,586/- per month and after deductions of Rs.10,943/- the rest of the amount is received. It is further observed by the Sessions Judge that respondent No.2 is now taking education. He was at the relevant time in the 4th Standard. Now his expenses towards the educations are also rising. Moreover, the prices of essential commodities are also rising, therefore the amount of Rs.6,000/- and Rs.3,500/- is a meager amount which is not sufficient to maintain herself as well as her son.

11. On perusal of the entire record, it reveals that the present petitioner is serving as Shlip Nideshak at Principal Industrial Training Center and drawing a salary of Rs.54,586/- per month. There are deductions of Rs.10,943/-. After deduction also, he is getting more than Rs.40,000/- and as far as the shouldering of the family responsibility i.e. the responsibility of the parents is concerned, there is nothing on record to show that except him,

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there is no other person to shoulder the said responsibility of his parents.

12. The law with respect to deciding the amount of maintenance is settled by the various decisions. In the case of ***Kiran Jyot 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."

13. In another decision in ***Vinny Paramvir Parmar vs. Paramvir Parmar [(2011) 9 SCR 371]***, the Hon'ble Apex Court held as 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

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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 dependent 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.

14. In the case of ***Rajnish vs. Neha [(2021) 2 SCC 324]***, elaborated upon the broad criteria and the factors to be considered for determining the quantum of maintenance. The Hon'ble Apex Court emphasizes 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 and are illustrative but are not limited or exhaustive, they are adumbrated 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.

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- 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.

15. In the light of the above factors narrated by the Hon'ble Apex Court, if the facts of the present case are taken into consideration, admittedly, the present petitioner is serving and drawing salary of Rs.54,586/-. The respondent No.2 is taking education and day by day expenses towards his education would rise. The respondent No.1 has to also incur the expenses towards the house rent, clothing and maintenance towards his son as well as maintenance towards herself. The prices of the essential commodities are also touching to the sky in the above circumstances the grant of maintenance at the rate of Rs.10,000/- and at the rate of Rs.7,000/- is not excessive and exorbitant. The Revisional Court has taken into consideration the today's situation that the prices of the essential commodities are touching to the sky as well as the expenses towards the education of the child i.e. respondent No.2. In view of that, the writ petition is devoid of merits and liable to be dismissed. Accordingly, I proceed to pass following order:

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ORDER

The writ petition is dismissed.

(URMILA JOSHI-PHALKE, J.)

Sarkate.