



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

CRIMINAL WRIT PETITION No. 230/2025.

Antakala w/o Keshao Koche,
Aged 72 years, Occupation -
Housewife, resident of c/o.
Chhannu Meghraj Nandeshwar,
Dhargaon, Tahsil and District
Bhandara.

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PETITIONER.

VERSUS

1.Babu s/o Keshao Koche,
Aged 52 years, Occupation – Service,
resident of Mundipar/Singhipar,
Tahsil Sakoli, District Bhandara.

2.State of Maharashtra,
through Police Station, Sakoli,
Tahsil Sakoli, District Bhandara.

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RESPONDENTS.

Ms S.P. Giratkar, Advocate for the Petitioner.
None for Respondent No.1.
Ms S.V. Kolhe, A.P.P. for Respondent No.2/State.

CORAM : M.M. NERLIKAR, J.

DATE : SEPTEMBER 24, 2025.

Rgd.

ORAL JUDGMENT :

Heard learned Counsel for the petitioner and learned A.P.P. for the respondent no.2 State. Despite service, respondent no.1 has chosen not to appear.

2. The petitioner by this petition challenges the judgment and order dated 31.12.2024 passed by the Additional Sessions Judge, Bhandara in Criminal Revision No.8/2023, wherein the maintenance granted by the learned Trial Court i.e. Judicial Magistrate First Class, Lakhni in Criminal Misc. Application No.163/2017 vide order dated 21.12.2022, to the tune of Rs.5000/- per month, was modified to Rs.3000/- per month, to be paid to the petitioner from the date of the application.

3. The petitioner/original applicant is mother of respondent no.1. The petitioner/applicant had filed an application under Section 125 of the Code of Criminal Procedure for grant of maintenance, thereby claiming an amount of Rs.10,000/- per month. After leading

Rgd.

evidence and hearing both sides, the learned Trial Court granted maintenance of Rs.5000/- per month vide its order dated 21.12.2022. The respondent no.1 – son challenged this order by filing Criminal Revision No.8/2023, wherein the said amount of Rs.5000/- per month was modified to Rs.3000/- per month, as stated above.

4. Being aggrieved and dissatisfied with the said order, the petitioner has approached this Court by way of this petition. Notice was issued to the respondent no.1 – son on 11.03.2025, however, though served, there is no appearance on his behalf. By order dated 16.07.2025, and also on 07.08.2025, this Court granted last chance to the respondent no.1 to put his appearance. On 07.08.2025, this Court again granted one more opportunity to the respondent no.1 to put in his appearance. Even thereafter, the matter was adjourned by two weeks, however inspite of opportunities being granted, the respondent no.1 has failed to appear. Even today there is no appearance on behalf of the respondent no.1.

The learned Counsel for the petitioner submits that the Revisional Court has not properly considered the evidence led by the
Rgd.

parties. When the parties have admitted that the petitioner is having no means for her survival, in such circumstances, the Revisional Court ought not to have modified the order of maintenance. She further submits that the respondent no.1 – son is a government servant i.e. teacher, and getting a handsome salary. From the affidavit of assets and liabilities filed on record the same shows that the respondent no.1 is getting Rs.71,399/- per month as salary, however, it further shows that he is having loan of Rs.6 lakhs. The learned Counsel for the petitioner further submitted that the petitioner is an old aged lady and it is the duty of respondent no.1- son to maintain her. Without considering these aspects, the Revisional Court has reduced the amount of maintenance from Rs.5000/- to Rs.3000/-, only on the ground that, the daughter with whom the petitioner is residing is providing her meals and therefore, the petitioner cannot claim maintenance for meals from the son.

5. Upon hearing the learned Counsel for the petitioner and on perusal of record, it appears that the petitioner has examined herself at Exh.14. She has also filed affidavit of assets and liabilities

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vide Exh.51. Further it appears that even the respondent no.1 has examined himself at Exh.39, so also he has examined one Keshav Koche [husband of the petitioner] at Exh.47. He has placed on record salary certificate and other documents relating to the agricultural field and has also filed affidavit of assets and liabilities vide Exh.52.

6. Perusal of the record shows that R.W.2 Keshav, who is husband of the petitioner is residing separately, has admitted the fact that the petitioner due to old age cannot do any work, and she has no source of income, and therefore, unable to maintain herself. Further it is also brought on record that the respondent no.1 Son is working as a teacher and getting a handsome salary of Rs.71,399/- per month. Even before the Revisional Court this fact was not disputed. However, the Revisional Court while arriving at a decision has considered that the petitioner has not brought on record any documentary evidence to show that the amount claimed is required for her medical treatment and that she is suffering from diseases like Diabetes and Hypertension.

7. Two facts which are important to be considered at this stage is - the age of the petitioner and the earning capacity of the respondent no.1 Son. These two important facts are duly proved by leading cogent evidence. It is the responsibility of son to maintain his parents. It has come in the evidence of respondent no.1, that Keshav, who is husband of the present petitioner is old aged and there is no source of income. In such circumstances, when this position is admitted by the Courts below, and when the respondent no.1 is earning more than Rs.70,000/- per month as salary, so also he is cultivating the agricultural field, in such circumstances, the maintenance granted by the Trial Court cannot be said to be exorbitant. In my opinion, the finding recorded by the Revisional Court, so far as it relates to providing meals by the daughter to the petitioner, is erroneous and the Revisional Court ought not to have deducted Rs.2000/- for that purpose. Even otherwise Rs.5000/- is not an exorbitant amount, and therefore, the respondent no.1 is duty bound to pay at least that much amount.

8. Considering the above position, I find that the Revisional
Rgd.

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Court has committed an error in modifying the order of maintenance from Rs.5000/- to Rs.3000/-. Therefore, it deserves indulgence at the hands of this Court. Hence, the following order.

ORDER

- (1) Criminal Writ Petition is allowed and disposed of.
- (2) The judgment and order passed by the learned Additional Sessions Judge, Bhandara in Criminal Revision No.8/2023 dated 31.12.2024 is hereby quashed and set aside.
- (3) The respondent no.1 – son to pay the amount of maintenance Rs.5000/- as directed by the Judicial Magistrate First Class, Lakhni vide order dated 21.12.2022 in Criminal Misc. Application No.163/2019.

JUDGE

Rgd.