



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

**CRIMINAL REVISION APPLICATION NO. 67 OF 2023**

Gajanan Jaywantrao Padghan Vs Pushpa Gajanan Padghan

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

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Mr. G.N. Shinde, counsel for applicant.

Ms. D.V. Sapkal, counsel for non-applicant.

**CORAM : URMILA JOSHI-PHALKE, J.**  
**DATED : 13/01/2025.**

1. By this application, the applicant has challenged the order passed by the Judge, Family Court in Criminal M.A. No. 13/2021 filed under Section 127 of the Code of Criminal Procedure, 1973 for enhancement of the maintenance amount at the rate of Rs.3000/- per month and Rs. 1000/- towards the costs.

2. Brief facts of the non-applicant's case are as under. The non-applicant is the wife of the present applicant, and therefore, the marriage was solemnized prior to the four years of filing the Criminal Misc. Application No. 278/2002. After marriage, she resumed cohabitation at the house of the present applicant, but there was a discord between them as she was ill-treated, allegedly by the present applicant, by demanding the golden ring, and therefore, she was constrained to leave the matrimonial house. Thereafter, she filed an application under Section 125 of the Code of Criminal Procedure, 1973, for grant of maintenance in the

Court of Judicial Magistrate First Class, Buldhana. The same was allowed, and the maintenance at the rate of Rs.500/- was granted to the present non-applicant. Subsequent to that, she has filed an application for enhancement of the maintenance amount. Subsequently, the said application was transferred to the Family Court, Buldhana. The non-applicant has filed an application before the Judicial Magistrate First Class bearing Misc. Criminal Case No. 175/2009, wherein the amount of maintenance from Rs. 500/- to Rs. 1200/- was enhanced. Again she has filed an application before the Judicial Magistrate First Class for enhancement of the maintenance amount, the same was subsequently transferred to the Family Court, Buldhana. After considering the change in circumstance and after considering the evidence adduced before the Court, the Family Court, Buldhana has enhanced the amount of maintenance at the rate of Rs.3000/- and the cost of Rs. 1000/-

3. Being aggrieved with the same judgment and order of maintenance, the present applicant has preferred the application on the ground that there was a Covid pandemic situation and therefore, the applicant could not attend the proceeding and could not file the written statement. No notices were issued to the applicant after it was transferred to the Family Court, and therefore, the order passed by the Family Court is without application of mind and without giving sufficient opportunity to the present applicant, and

therefore, the order passed by the Family Court deserves to be quashed and set aside.

4. Heard learned counsel for the applicant, who invited my attention towards the Roznama and submitted that the Roznama nowhere reflects that any notices were issued to the present applicant after the matter was transferred to the Family Court Buldhana. He submitted that the matter was proceeded without a written statement of the said applicant. Thus, sufficient opportunity was not granted to the present applicant, and without application of mind, though there was no change in circumstance, the amount of maintenance was enhanced by the Family Court. In view of that, the order passed by the Family Court, deserves to be quashed and set aside.

5. Learned counsel for the non-applicant supported the judgment of the Family Court and submitted that the present applicant appeared before the Family Court, but he has not filed the written statement, and therefore, the matter was proceeded with. His presence was already secured before the Family Court, and therefore the contention that opportunity was not granted to him is not sustainable. She submitted that considering the rises in the essential commodities, the amount of maintenance was enhanced. Therefore, there is no merit in the present revision application, and hence the revision application deserves to be dismissed.

6. After hearing both sides and on perusal of the impugned order passed by the Family Court, it reveals that the non-applicant has adduced her evidence and submitted that initially the maintenance at the rate of Rs. 500/- was granted to her in Misc. Application No. 278/2002. Thereafter, in another Misc. Application No. 175/2009, the said maintenance amount was enhanced up to Rs. 1200/-. Thereafter, she has filed this application on the ground that the amount of Rs.1200/- is an inadequate amount to maintain herself, as the prices of the essential commodities have risen, and therefore, considering the same, as well as considering the evidence that the applicant has been cultivating the agricultural land and having sufficient means to pay the maintenance amount, she claimed the amount of Rs.5000/-. The Family Court further observed that almost after 12 years of enhancing the maintenance amount, the subsequent application is filed. The Family Court also considered that prices of essential commodities have increased substantially and therefore granted the maintenance at the rate of Rs. 3,000/-. From the Roznama, it appears that during the Covid pandemic, no adverse orders were passed against the present applicant, as far as his presence is concerned. Subsequently, the Family Court was established, and the matter was transferred to the Family Court. Before the Family Court, the presence of the present applicant was secured, and as he could not file his written statement, therefore the matter was proceeded without his written statement. During the trial, the applicant

as well as his counsels were present, and after considering the entire evidence on record, the Family Court has enhanced the maintenance amount. As far as the quantum of maintenance is concerned, there is no dispute that the prices of the essential commodities are touching to the sky. In such circumstances, the amount of Rs. 1200/- was very meager amount. It is difficult for the non-applicant to maintain herself in the said meager amount, and by considering all these aspects, the Family Court has increased or enhanced the amount of maintenance. I do not find any merit in the application. Accordingly, I proceed to pass the following order.

In view of the above facts and circumstances, the revision application is **dismissed**.

**[URMILA JOSHI-PHALKE, J.]**