



Judgment

432 revn123.23

1

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

CRIMINAL REVISION APPLICATION NO.123 OF 2023

1. Pradnya Shrikant Mule,
aged about 38 years, occupation: homemaker.

2. Ravi Shrikant Mule,
through legal guardian mother,
aged about: 9 years, occupation – student.

Both r/o Shantaram Pargharmor Renuka
Nagar Dabki Road, Akola. **Applicants.**

:: V E R S U S ::

Shrikant Gabaji Mule,
aged about -42 years, occupation service,
~~r/o c/o Chandrashekhar Patil Wardhaman~~
~~Nagar Jammer,~~
R/o “Shrawasti”, Jain Nagda Society,
near water tank, Khamgaon,
tahsil Khamgaon, district Buldhana. **Non-applicant.**

Shri Nitin Munghate, Counsel for Applicants.
None for the Non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
CLOSED ON : 10/07/2025
PRONOUNCED ON : 16/07/2025

JUDGMENT

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2

1. Applicant No.1, who is wife, and applicant No.2, who is son, of the non-applicant has filed application bearing Application No.E-64/2021 under Section 125 of the CrPC for grant of maintenance before learned Judge of the Family Court at Akola. On 20.3.2023, the said application came to be allowed directing the non-applicant to pay Rs.12,000/- and Rs.8,000/- towards maintenance to applicant No.1 and applicant No.2 respectively from the date of filing of the application and Rs.25,000/- towards costs.

2. Being dissatisfied with the maintenance granted by learned Judge of the Family Court at Akola, the applicants have filed this revision for enhancement of maintenance.

3. Brief facts of the case are as under:

Applicant No.1 and the non-applicant are wife and husband. Their marriage was performed on 1.7.2012.

3

After the marriage, the applicant/wife resumed cohabitation at the house of the non-applicant/husband. From their wedlock, she gave birth to a son, who is now 9 years old. As per the contention of the applicant/wife, after the marriage, she was ill-treated by the non-applicant/husband and his family members. On the instigation of other family members, the non-applicant/husband used to ill-treat her and, therefore, she was constrained to leave her matrimonial house and take shelter at the house of her parents. After she left the matrimonial house, the non-applicant/husband has not made any provision for her maintenance and, therefore, she was dependent upon income of her parents. The non-applicant/husband filed an application Section 9 of the Hindu Marriage Act for restitution of conjugal rights before learned CJSD, Khamgaon bearing Marriage Petition No.125/2015.

4

Subsequently, the said petition was transferred to the Family Court at Akola and registered as Petition No.A-141/2017. At the same time, the applicant/wife filed a proceeding under the provisions of the Protection of Women from Domestic Violence Act. The proceeding was partly allowed and learned JMFC at Akola in Misc.Criminal Case No.1682/2015 granted maintenance @ Rs.3000/- per month to the applicant/wife and Rs.2000 to applicant/son. The applicant/wife and the non-applicant/husband both filed appeals before learned Additional Sessions Judge at Akola and learned Additional Sessions Judge in Criminal Appeal No.128/2016 enhanced amount of maintenance @ Rs.5000/- per month to the applicant/wife and Rs.3000/- per month to the applicant/son. Despite of the said order of enhancing the maintenance amount, the non-applicant/husband did not pay the amount of the

5

maintenance. In the meanwhile, the matter was settled between the parties and as per the terms of compromise dated 22.1.2018, the applicants agreed to reside with the non-applicant/husband at Mumbai and the non-applicant/husband was supposed to make arrangement of school admission of the applicant/son, but the non-applicant/husband has not complied with the terms and conditions of the settlement and did not provide the basic facilities to the applicants. The non-applicant/husband, only to avoid the payment of maintenance, settled the matter before the Family Court and insisted the applicant/wife to make statement that she is leading her happy life with him and the matter was withdrawn before the Lok Adalat. However, as the non-applicant/husband has not provided basic facilities and also not made arrangement of the school admission of the applicant/son, the applicant/wife was constrained to file petition for

6

maintenance under Section 125 of the CrPC before the Family Court at Akola. The non-applicant/husband also filed petition bearing Petition No.A-194/2018 for dissolution of marriage wherein *interim* maintenance was granted to the applicant/wife @ Rs.6000/- per month, till final disposal of the petition.

4. The Application No.E-64/2021 for grant of maintenance filed by the applicants was decided by the learned Judge of the Family Court granting maintenance @ Rs.12,000/- to the applicant/wife and Rs.8,000/- to the applicant/son from the date of filing of the application and with costs of Rs.25,000/-.

5. Being aggrieved and dissatisfied with the said order of maintenance, the present revision is filed for enhancement of maintenance on the ground that amount of Rs.20,000/- is inadequate to lead the life as per the

7

status of the non-applicant/husband. The non-applicant/husband is serving in LIC and drawing salary of Rs.85,000/- per month. Besides the salary, he owns agricultural land and is getting income of Rs.10.00 Lacs per annum. As per the contention of the applicant/wife, he owns his own house in the name of his mother. His father was serving in police department and owns agricultural land at Seoni, Akola. Except the applicants, no other family members are dependents on him and, therefore, the amount of maintenance deserves to be enhanced and, therefore, by this revision the applicants are claiming enhanced amount of maintenance.

6. Despite service of the notice and engaging counsel, none appeared to make submissions on behalf of the non-applicant/husband.

8

7. Learned counsel Shri Nitin Munghate for the applicants submitted that learned Judge of the Family Court has not considered the income of the non-applicant/husband and granted inadequate maintenance. The applicant/wife has to incur the expenses towards education of the applicant/son, house rent, and food and clothing etc. The amount granted by learned Judge of the Family Court towards maintenance is inadequate and not sufficient to lead life as per the status of the non-applicant/husband. The non-applicant/husband is serving in LIC and staying in his own house and drawing handsome salary. Learned Judge of the Family Court has not considered the same. The assets and liabilities given by the non-applicant/husband before the Family Court show that he has sufficient means of income and he is able to give a separate maintenance to the applicants. His monthly income shown in the assets and liabilities is

9

Rs.56,688/-, as per the salary certificate for the month of June 2022. The prices of the essential commodities are touching to the sky and the expenses to be incurred as to the education of her child is also rising day by day and, therefore, for all above these reasons, the amount of maintenance requires to be enhanced.

8. On hearing learned counsel for the applicants and perusing of the entire record, it is not disputed that initially the applicant/wife has filed an application under the provisions of the Protection of Women from Domestic Violence Act wherein learned JMFC at Akola granted maintenance @ Rs.3000/- per month to the applicant/wife and Rs.2000 to applicant/son, which came to be enhanced by learned Additional Sessions Judge at Akola in Criminal Appeal No.128/2016 directing to pay Rs.5000/- per month to the applicant/wife and Rs.3000/-

10

per month to the applicant/son. It is also not disputed that the non-applicant/husband filed a petition for dissolution of marriage wherein also the *interim* alimony @ Rs.6000/- per month was granted to the applicant/wife by the Family Court, till disposal of the petition. The said petition was disposed of finally on 24.1.2020. Thus, from 24.1.2020 to 20.3.2023 she received *interim* alimony @ Rs.6000 per month in addition to the maintenance granted to the applicants by learned Additional Sessions Judge at Akola. Subsequent to that, the applicant/wife had filed an application bearing Application No.E-64/2021 under Section 125 of the CrPC for grant of maintenance before learned Judge of the Family Court at Akola. On 20.3.2023, the said application came to be allowed directing the non-applicant to pay Rs.12,000/- and Rs.8,000/- towards maintenance to applicant No.1 and applicant No.2 respectively from the date of filing of the

11

application and Rs.25,000/- towards costs. Being aggrieved with the same, the present revision is filed by the applicants. The applicant/wife has adduced the evidence before the Family Court.

9. The only issue to be looked into is, whether the applicants are entitled for enhancement of the maintenance amount.

10. As per the evidence of the applicant/wife, the non-applicant/husband is drawing salary of Rs.85000/- and also getting income from the agricultural land. As far as the evidence by adduced by her is concerned, she placed reliance on the salary slip of June 2022 which shows gross earning of the non-applicant/husband is Rs.84,243/- and after deduction, he is drawing salary of Rs.56,688/-.

12

As far as the income from the agricultural land is concerned, the agricultural land is standing in the name of father of the non-applicant/husband. Though the applicant/wife has stated that the non-applicant/husband is getting income of Rs.10.00 lacs from the said agricultural land, the said aspect is not proved by her by adducing any evidence. Learned Judge of the Family Court has considered that the non-applicant/husband is drawing salary of Rs.56,688/-. He is also getting an income from the agricultural land. Learned Judge of the Family Court granted amount @ Rs.12,000/- and @ Rs.8,000/- towards maintenance to applicant No.1 and applicant No.2 respectively from the date of filing of the application. Thus, the applicants are getting total maintenance @ Rs.20,000/- per month.

13

In addition to that, as per order of learned Additional Sessions Judge at Akola in Criminal Appeal No.128/2016, the applicant/wife is getting enhanced amount of maintenance @ Rs.5000/- per month and the applicant/son is getting @ Rs.3000/- per month.

Thus, the applicant/wife is getting total amount of m @ Rs.17000/- per month and applicant/son is getting @ Rs.11,000/- per month.

11. Perusal of the evidence on record as well as the judgment and order impugned in the revision shows that the learned Judge of the Family Court has considered the income of non-applicant/husband and also considered that the applicants are getting maintenance as per the order of learned Additional Sessions Judge at Akola in other proceedings.

14

12. It is true that the applicants are entitled to lead their lives as per their status.

13. In the case of **Rinku Baheti Vs. Sandesh Sharda, reported in MANU/SC/1374/2024**, the Hon'ble Apex Court observed as under:

“14.5 We have serious reservations with the tendency of parties seeking maintenance or alimony as an equalisation of wealth with the other party. It is often seen that parties in their application for maintenance or alimony highlight the assets, status and income of their spouse, and then ask for an amount that can equal their wealth to that of the spouse. However, there is an inconsistency in this practice, because the demands of equalisation are made only in cases where the spouse is a person of means or is doing well for himself. But such demands are conspicuously absent in cases where the

15

wealth of the spouse has decreased since the time of separation. There cannot be two different approaches to seeking and granting maintenance or alimony, depending on the status and income of the spouse. The law of maintenance is aimed at empowering the destitute and achieving social justice and dignity of the individual. The husband is under a legal obligation to sufficiently provide for his wife. As per settled law, the wife is entitled to be maintained as far as possible in a manner that is similar to what she was accustomed to in her matrimonial home while the parties were together. But once the parties have separated, it cannot be expected of the husband to maintain her as per his present status all his life. If the husband has moved ahead and is fortunately doing better in life post his separation, then to ask him to always maintain the status of the wife as per his own changing status would be putting a burden on his own personal progress. We wonder, would

16

the wife be willing to seek an equalisation of wealth with the husband if due to some unfortunate events post-separation, he has been rendered a pauper?”

14. The law with respect to deciding the amount of permanent alimony is settled by the various decisions of the Hon’ble Apex Court. In the case of **Kiran Jyot Maini vs. Anish Pramod Patel, reported in (2024)7 SCR 942**, 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

17

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.”

15. In another decision in **Vinny Paramvir Parmar vs. Paramvir Parmar**, reported in (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 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

18

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.

16. In the case of **Rajnish vs. Neha, reported in (2021)2 SCC 324**, elaborating 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

19

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.
- 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.

20

17. In the case of **Rajnesh vs. Neha** *supra* the Hon'ble Apex Court, while considering the right of the wife to claim maintenance under various enactments, held that It is well settled that a wife can make a claim for maintenance under different statutes. For instance, there is no bar to seek maintenance both under the D.V. Act and Section 125 of the Code of Criminal Procedure, or under H.M.A. It would, however, be inequitable to direct the husband to pay maintenance under each of the proceedings, independent of the relief granted in a previous proceeding. If maintenance is awarded to the wife in a previously instituted proceeding, she is under a legal obligation to disclose the same in a subsequent proceeding for maintenance, which may be filed under another enactment. While deciding the quantum of maintenance in the subsequent proceeding, the civil court/family court shall take into account the

21

maintenance awarded in any previously instituted proceeding, and determine the maintenance payable to the claimant.

18. In the light of the above factors, if the facts of the present case are taken into consideration, admittedly, learned Judge of the Family Court granted maintenance @ Rs.12,000/- to the applicant/wife and Rs.8,000/- to the applicant/son. In addition to that, as per order of learned Additional Sessions Judge at Akola in Criminal Appeal No.128/2016, the applicant/wife is getting enhanced amount of maintenance @ Rs.5000/- per month and the applicant/son is getting @ Rs.3000/- per month.

19. Thus, the maintenance granted to the applicants in both proceedings is sufficient to lead the life as per the status of the non-applicant/husband.

22

20. After balancing all these factors, I have no hesitation to hold that sufficient amount of maintenance is already granted to the applicants by considering the income of the non-applicant/husband.

21. In this view of the matter, the revision being devoid of merits is liable to be dismissed and the same is **dismissed**.

Revision stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!