



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

CRIMINAL REVISION APPLICATION NO. 286 OF 2022

APPLICANT : Namdev Sawairam Jadhav,
Aged 52 years, Occu: Assistant
Teacher, R/o Sadguru Niwas, Ram
Nagar, Behind Padharinath College,
Mehkar, Tq. Mehkar, District
Buldhana.

..Versus....

- NON-APPLICANTS** 1. : Sau. Minakshi Namdev Jadhav,
Aged 50 years, Occu: Business,
r/o c/o Kavita Ramdas Kambale,
Mahananda Nagar, Gurudatta
Society, Umarsara, Yavatmal,
Tq. Dist. Yavatmal.
2. Ku. Vaibhavi Namdev Jadhav,
Aged 19 years, Student, R/o Sadguru
Niwas, Ram Nagar, Behind
Padharinath College, Mehkar, Tq.
Mehkar, Dist. Buldana.
3. Saish Namdev Jadhav, Aged 14 years,
Student, r/o Sadguru Niwas, Ram
Nagar, Behind Padharinath College,
Mehkar, Tq. Mehkar, Dist. Buldana.

(Respondent 3 represented through
his mother, Sau. Minakshi Namdev
Jadhav, as natural Guardian)

Mr. Amit D. Bhate, counsel for applicant.
Mrs. Kirti Deshpande, counsel (appointed) for non-applicant No.1.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 11/02/2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.** Heard finally with the consent of learned counsels appearing for the parties.
3. The present revision application is filed by the applicant/husband challenging the judgment and order of maintenance passed by the Family Court, Yavatmal, in Petition No. E-225/2020 decided on 08/11/2022 granting maintenance to the non-applicant/wife @ Rs. 9,000/- per month from the date of filing of this petition, i.e. from 05/11/2009.
4. The brief facts which are necessary for disposal of the revision are as under:

The marriage between the applicant and the non-applicant was solemnized at Yavatmal in the year 1992. Out of the said wedlock, the non-applicant has begotten one daughter and one son. According to the non-applicant/wife, she did not conceive for about 9 years after marriage, and therefore she was harassed by the present applicant and his family members. She further alleged that the nature of the applicant was greedy and he used to abuse and beat her. He has also obtained a loan in her name for starting Oil Mill and he was looking after the entire affair for Oil Mill. The applicant has not repaid the said loan because he was addicted to bad-vices and he was blaming her for being indebted. In the year 2016, the applicant beat her and drove her out of the house along with her children. She further alleged that on 31/05/2019, again the respondent beat her and drove her out of the house along with her children, and since then, she is residing at her paternal house, thereafter, she filed an application for grant of maintenance. She has also lodged the report with the Vadgaon Police Station against the present applicant and his family members.

5. It is further alleged by the non-applicants that, after she was driven out of the house, the present applicant has not

made any arrangements for maintenance for her as well as for the children. He is serving as an Assistant Teacher and earning salary of Rs. 74,920/- per month, he has also holding agricultural land and house property, and getting income from the said properties also, and thus he is having sufficient means to grant a maintenance to the present non-applicant.

6. The present applicant has resisted the claim of the non-applicants by filing written statement before the Family Court; he denied all the allegations levelled against him. It is the contention of the present applicant that the non-applicant was running an oil mill. He has obtained the loan to run the said oil mill for the non-applicant. Subsequently, the said oil mill has been damaged due to the fire, and the non-applicant has left his company without any sufficient and satisfactory reasons and is now residing at her parents house. The allegation as to the ill treatment is concerned, are completely denied by him. He submitted that he has various responsibilities, including the responsibility of repaying the loan amount which is obtained from the present non-applicant. He submitted that a false criminal case is filed against him and other family members and present

non-applicants, and therefore, she is not entitled for any separate maintenance.

7. After recording the evidence and after appreciating the same, the Family Court granted maintenance @ Rs. 9,000/- to the non-applicant from the date of filing of this petition.

8. It is further contention of the present applicant that, being he has obtained the various loans and the amounts are deducted towards the repayment of the loan, he is not in a position to pay separate maintenance to the non-applicant due to his financial condition. Therefore, the application deserves to be rejected.

9. Being aggrieved and dissatisfied with the same, the present revision is filed by the applicant on the ground that the learned Family Court has not considered that the applicant is owing the responsibility towards repayment of the loan, though the applicant was drawing a salary of approximately Rs. 1 lakh, but the amounts towards the repayment of the loan are deducted from his salary, and therefore, he is not having sufficient means.

10. It is further submitted that the Family Court has also

not considered that it was the non-applicant who left the company of the present applicant without sufficient and satisfactory reason. Despite the decree for restitution of conjugal rights being passed in favour of the present applicant, she has not joined the cohabitation. Thus, it is the non-applicants who has neglected and refused to stay along with the present applicant, and therefore, she is not entitled for any maintenance.

11. It is further submitted by the learned counsel for the applicant that a few properties are in the name of the present non-applicants as well as she has not obtained the amount of the insurance, which is lying as the oil mill was damaged in a fire. As far as the maintenance amount is concerned, the Family Court has granted the amount at an excessive rate, which is exorbitant, and therefore, it deserves to be modified.

12. Learned counsel, Ms. Kirti Deshpande, for the non-applicants, has invited my attention towards the evidence of non-applicants and submitted that the non-applicants have adduced the evidence before the Family Court to show that she was ill-treated, and therefore, she was constrained to leave the matrimonial house and took shelter at her parents place.

Thereafter, no provision was made for the maintenance as well as for the maintenance of the children, and therefore, the Family Court has considered the same and granted maintenance. The amount of maintenance is granted by Family Court considering the income of the present applicant as well as the responsibilities which he is carrying. Thus, the order passed by the Family Court is a reasonable one, and there is no ground to reduce the amount of maintenance.

13. In support of her contention, she placed reliance on *Shamima Farooqui vs Shahid Khan [AIR 2015 SC 2025]*. She further placed reliance on the decision of *Rina Kumari @ Rina Devi @ Reena vs Dinesh Kumar Mahto @ Dinesh Kumar Mahato and another [Special Leave Petition (Crl.) No. 5896 of 2024 decided on 10/01/2025]* and submitted that the Hon'ble Apex Court even considered that a wife who suffered a decree of divorce on the ground of deserting her husband is also entitled for maintenance. She submitted that passing of a decree for restitution of conjugal rights, therefore cannot be held against her which is held by the Hon'ble Apex Court. In view of that, despite the decree for restitution of conjugal right is passed in favour of the present

applicant, is not sufficient ground to deny her maintenance amount and therefore, the revision is devoid of merits and liable to be dismissed.

14. After hearing both sides and on perusal of the evidence on record, it is not disputed that there was a matrimonial relationship between the present applicant and non-applicants, as their marriage took place in the year 1999. Out of the said wedlock, they have one daughter and one son, which is also an undisputed fact. It is also undisputed that the applicant and non-applicants cohabited together till 2019. As per the allegation of the non-applicant/wife that she is driven out of the house by ill-treating her, and therefore, she took a shelter at her parents house, whereas it is contention of the applicant that it is the non-applicant/wife who, without submitted the reason, left his company and stayed along with her parents.

15. To substantiate the respective contentions, the applicant and non-applicants both have adduced the evidence before the Family Court. As far as the evidence of the non-applicant/wife is concerned, she has reiterated in her affidavit of the evidence. Her cross-examination is also carried out. During her

cross-examination, attempt was made to show that she herself has left the house without any sufficient reason, but she has denied the same. It further brought on record that one oil mill was started in her name, but she has specifically stated only her signatures are obtained, and she is not aware from whom the valuation report is obtained and which are the machineries purchased for running the said oil mill. The applicant has also adduced his evidence, and sum and substance of the evidence is that the non-applicants used to threaten him that she would leave his company and also used to humiliate him. He has also obtained the loan to start an oil mill for her, and now he is repaying the said loan amount. Thus, without any sufficient reason, she has left the company, and therefore, she is not entitled for any maintenance. His cross-examination shows that there was a relationship between them prior to the marriage; as a result of that relationship, a marriage was performed. He admitted that he is drawing a salary of Rs. 1 lakh, but he stated that he is only receiving the amount of Rs. 2,000/-. The rest of the cross-examination is in the denial.

16. On perusal of the salary certificate, it reveals that there are some deductions, but as far as his contention that he

only received Rs. 2000/-, it is falsified by the said salary certificate. As the said salary certificate, which is dated 12/10/2019, from which it reveals that salary Rs. 74,920/-, he was drawing and deduction was Rs. 35,317/-, and he was receiving Rs. 39,603/- in hand. Thus, this document itself falsifies his version that he was only drawing a salary of Rs. 2,000/- in his hand.

17. The non-applicant has claimed the maintenance under Section 125 of Cr.P.C. The object of the maintenance proceeding is to provide some major to the woman who is deserted or not maintain or refuse or neglected by the husband. The Section 125 Cr.P.C. is a measure of social justice, especially enacted to protect women and children, falling within the provision of Section 125 of Cr.P.C. Thus, the objective of the provision, then and now, is to provide the financial assistance to the wives, children and parents, who are left by their husband or the sons.

18. The Hon'ble apex Court in the case of ***Bhuwan Mohan Singh vs Meena & Ors [(2015) 6 SCC 353]***, observed that Section 125 of the Cr.P.C. was conceived to ameliorate the agony, anguish,

financial suffering of a woman, who left her matrimonial home 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 is was held that the concept of subsistence 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 in law to lead a life in a similar manner as she would have lived in the house of her husband. This Court further cautioned that, in a proceeding of this nature, the husband cannot be permitted to take or deprived the wife of the benefits of living with dignity and there could be no escape route, unless there is an order from the Court that the wife is not entitled to get maintenance from the husband on legally permissible grounds.

19. Thus, the provision of maintenance aims at empowering the destitute and achieving social justice or equality and dignity of the individual and while dealing with cases thereunder, the approach should be social adjudication and considering the need of the wife. The maintenance laws are enacted as a measure of social justice to provide recourse to

dependent wives and children for their financial support.

20. Coming to the case in hand, the evidence on record shows that both the applicant and non-applicants have cohabited and resided together till 2019. Their marriage was solemnized in the year 1992. Thus, they stayed together for more than 30 years and thereafter, some rift between the relationship was there, and therefore, the non-applicants constrained to leave matrimonial house and staying at her parents house. As far as her allegations are concerned, she has lodged a report about the said ill-treatments by lodging the complaint under section 498-A of Cr.P.C.

21. The requirement of Section 125 of Cr.P.C. shows that if any person having sufficient means neglects or refuses to maintain his wife, who is unable to maintain herself, or his legitimate or illegitimate minor child, whether married or not, unable to maintain themselves, or his legitimate or illegitimate child who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain himself, or his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such persons to make a monthly

allowance for the maintenance of his wife or such child, father or mother, at any monthly rate as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct.

22. Thus, the right of maintenance is granted to the non-applicant/wife under Section 125 Cr.P.C. as the marriage still legally subsists. This provision of the measure of social justice is specially enacted to protect women and children and falls within the definition of wife and children.

23. Section 125 of the Code of Criminal Procedure is meant to achieve a social purpose, the object is to prepare any destitution to the wife. The law entitles to wife for grant of maintenance for the sole reason that there is a specific provision which considering the that she should not be left alone, if she is enable to maintenance herself, in absence of the any source of income. The supremacy to the intention of the legislature is to be given, and in the light of the same and in the light of the object behind the provision, the amount of maintenance is to be granted. It is also well settled that while granting the maintenance dignity of the wife is to be seen and to maintain the dignity, the amount of

maintenance is to be awarded considering the status of her husband.

24. Here in the present case, the applicant is Assistant teacher drawing a salary of approximately Rs. 1 lakh. Even after deducting the amount towards the compulsory deductions, he is having sufficient means to grant maintenance. The Family Court has considered the same and awarded the maintenance @ Rs. 9,000/-, which appears to be a reasonable and justifiable one, and therefore, no grounds are made out by the present applicant to reduce the amount of maintenance.

25. In view of the above discussions, the revision is devoid of merits and liable to be dismissed. Accordingly, I proceed to pass the following order.

- a] The criminal revision application No. 286 of 2022 is **dismissed.**
- b] The fees of the appointed counsel be quantified as per Rule.

[URMILA JOSHI-PHALKE, J.]