



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

CRIMINAL REVISION APPLICATION NO.301 OF 2022

Pramod s/o Sheshraoji Chafle
Aged about 48 years,
Occupation – Job work,
R/o Ramnagar, Behind Police Station,
Ward No.2, Kondhali,
Tahsil Katol, District Nagpur

...APPLICANT

VERSUS

Ku. Kinjal d/o Pramod Chafle
Aged about 11 years, Occupation – Nil,
through her natural guardian mother,
Miss Raksha @ Riddhi d/o Ashok Dhawale,
R/o. C/o. Sau. Varsha Dhawale,
Near Anand Cinema Hall,
Anand Nagar, Nagpur,
Tahsil and District Nagpur.

...NON-APPLICANT

Ms A.H. Dangre, Advocate for the applicant.
Mr. M.A. Deo, Advocate for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : FEBRUARY 18, 2025.

ORAL JUDGMENT :

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. Present applicant has preferred this revision to challenge the order and judgment passed by the Family Court No.4, Nagpur by which the maintenance @ Rs.5000/- per month is granted to the non-applicant.

3. The facts of the case which are necessary for the disposal of the revision are as under:

A] The marital relations of mother of the non-applicant and the applicant were not good, and therefore, mother filed a petition No. A-176/2014 for divorce. The petition later converted under Section 13-B of the Hindu Marriage Act, 1955 and accordingly their marriage has been dissolved by decree of divorce by mutual consent on 10/11/2014. The marriage of the mother of the non-applicant and the applicant was performed on 23/11/2010 and from the said wedlock the birth of the present non-applicant took place. The non-applicant is residing with her mother. The applicant has not made any provision for her maintenance, and therefore, she filed an application before the Family Court for grant of maintenance under Section 125 of the Cr.P.C. It is contended that the applicant is running a Dhaba by name Madhuban Hotel at Bazargaon, Amravati Road and earning Rs.50,000/- p.m. He also holds agriculture land at Dudhala, Tah. Katol, Dist. Nagpur and earning Rs.4,00,000/- per year. He has sufficient means to pay separate maintenance to the non-applicant, and therefore, the application was filed.

B] The applicant contested the said application by filing his written statement vide Exh.13. He has not disputed the relationship with the non-applicant and her mother. However, he denied that he has refused and neglected to maintain her as well as he also denied that he has sufficient means to grant separate maintenance. It is contended by him that mother of the non-applicant is doing private job and getting income of Rs.20,000/- p.m. The mother and father both are equally liable to maintain their daughter. He is a labour and hardly gets the amount of Rs.2,500/- to Rs.3,000/- p.m. from daily wages. His old aged parents are also dependents on him and he is not having sufficient means to pay separate maintenance and thereby prayed for dismissal of the application.

4. Learned Family Court appreciated the evidence and granted maintenance @ Rs.5000/- per month to the present non-applicant. Being aggrieved with the same, present revision application is filed by the applicant on the ground that learned Family Court has not considered that the applicant has no sufficient means to grant maintenance. Moreover, it is the joint responsibility of both the parents, and therefore, entire responsibility cannot be cast upon the present applicant. It is further contended that the Family Court has granted maintenance from the date of application, and therefore it is difficult for the applicant to comply with the said order as arrears are huge one and for that purpose

it is clear that even if the Court grants maintenance it should be from the date of the order.

5. Learned Counsel for the applicant submitted that considering that there is no material placed on record by the mother of the non-applicant to show that the applicant has sufficient means to grant maintenance. Thereafter also the Family Court has granted maintenance @ Rs.5000/-. The applicant is not denied his responsibility to pay the maintenance but the amount should be reduced. She further submitted that normally the maintenance amount is to be granted from the date of order but it is granted from the date of application, and therefore, the applicant is unable to comply with the same. In view of that, the order passed by the Family Court deserves to be quashed and set aside.

6. Learned Counsel for the non-applicant strongly opposed the application and submitted that the applicant has sold out his agricultural land and received amount towards consideration. He has not made any arrangement for the maintenance of the child. As far as the private job by the mother is concerned she is getting a limited amount from the said job and she is already maintaining the child, but the child is studying, and the mother has to incur the expenses towards her education, clothing and day to day needs, and therefore, it is difficult for the

mother also to incur the expenses. On the contrary, the applicant is a hotel business as well as he is having agriculture land and getting handsome amount from the same, and therefore, he has sufficient means for grant of maintenance. As far as grant of maintenance from the date of application and from the date of order is concerned he placed reliance on the judgement of *Rajnesh Vs. Neha and anr. [AIR 2021 SC 569]* wherein the Hon'ble Apex Court has concluded the issue by considering the divergent view and it is held that it should be from the date of the application. In view of that, the revision is devoid of merits and liable to be dismissed.

7. I have heard learned Counsel for both the parties. Perused the impugned judgment as well as the evidence on record there is no dispute that the marriage between the parents of the non-applicant is dissolved due to the rift in the relationship. It is also not disputed that the mother of the non-applicant is doing a private job and drawing a salary of Rs.20,000/- per month. The non-applicant is already residing along with the mother and mother is incurring the expenses towards her education and daily needs.

8. On the contrary, it was contended that the applicant is running a Dhaba by name Madhuban Hotel at Bazargaon, Amravati Road and also having agriculture land and getting income from that

property also. The mother of the non-applicant has adduced the evidence in support of the said contention and she has reiterated that the applicant is having sufficient means for the grant of maintenance. During cross-examination, the present applicant has admitted that he has paid a premium towards the LIC policy in the name of his daughter. During his cross-examination he further admitted that a flat was recorded in the joint name of his and his brother and that flat has been sold. He has admitted the photocopy of the registered sale-deed. He further admitted that the business is in his name. Thus, the evidence which is brought on record sufficiently shows that the present applicant is having sufficient means for grant of maintenance.

9. Section 125 of the Cr.P.C. was conceived to ameliorate the agony, anguish, financial suffering of a woman and children who left by the parents due to the matrimonial disputes between them, so that some suitable arrangements can be made by the Court by which the children can sustain themselves. The concept of "subsistence" did not necessarily mean to lead a life "like an animal", feel like an unperson to be thrown away from grace and the children would be entitled to lead a life in a similar manner as they would lead a life in the house of their father. Thus, the inherent and fundamental principle behind Section 125 of Cr.P.C. is financial assistance to the children who suffers because of the desertion at the hands of their father or due to the rift between

relationship of their parents and they compelled to live with one parent. As per the law children are entitled to lead a life in a similar manner as they could have been live with the father and as long as they are held entitled to grant of maintenance with the parameters of Section 125 of Cr.PC.

10. In the light of the above principles, if the evidence on record is ascertained, admittedly, it has been established that the applicant is having sufficient means for grant of maintenance. As far as the quantum of maintenance is concerned the amount of Rs.5000/- is not at all an exorbitant or excessive amount considering the prices of the essential commodities are touching to the sky. The mother of the non-applicant has to incur the expenses towards her education, clothing and her daily requirements, and therefore, the Family Court has rightly considered the quantum of maintenance. Then the question regarding from which date the maintenance is to be granted. This aspect is already dealt by the Hon'ble Apex Court by considering the two divergent view and it is held by the Hon'ble Apex court in the case of Rajnish Vs. Neha and anr. (supra) that the judgments hereinabove reveal the divergent views of different High Courts on the date from which maintenance must be awarded. Even though a judicial discretion is conferred upon the Court to grant maintenance either from the date of application or from the date of the order in S. 125(2) Cr.PC., it would be appropriate to grant

maintenance from the date of application from the date of application in all cases, including Section 125 Cr.P.C. In the practical working of the provisions relating to maintenance, we find that there is significant delay in disposal of the applications for interim maintenance for years on end. It would therefore be in the interests of justice and fair play that maintenance is awarded from the date of the application.

11. In view of the above observation of the Hon'ble Apex Court, the grant of maintenance from the date of application is proper and legal one. Thus, the revision is devoid of merits and liable to be dismissed.

12. The revision application is dismissed.

13. The applicant shall pay the total amount of arrears within one month.

(URMILA JOSHI-PHALKE, J.)

**Divya*