



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

CRIMINAL REVISION APPLICATION NO.261 OF 2023

Rashmi W/o Ajay Shrikhande
Aged 39 years, Occ : Service,
R/o. C/o. Digamber Gopatrao Hole,
Shivneri Society, Near Arni Naka,
Yavatmal, Tq and Dist Yavatmal

...APPLICANT

VERSUS

Ajay S/o. Nandkishor Shrikhande
Aged : 42 yrs, Occ: Govt. Service
R/o. Presently, Industrial Training
Institute (ITI), Gurukung Mozari,
Tq. Tiwsa, Dist. Amravati

...NON-APPLICANT

Mr. R.R. Dawda, Advocate for the applicant.
Mr. S.B. Gandhe, Advocate for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : JULY 02, 2025.

ORAL JUDGMENT :

By this revision, the applicant is seeking modification of the order dated 16/09/2023 passed by the Family Court, Yavatmal in Petition No.E/119/2020 and prayed for grant of monthly maintenance of Rs.20,000/- to the applicant.

2. The brief facts which are necessary for the disposal of the said application are as under:

A] The applicant/wife has filed a petition No.A-18/2021 against the husband for the dissolution of marriage under the provisions of Section 13(1)(ib) of the Hindu Marriage Act, 1955. The applicant/wife has filed petition No.A-18/2021 against the husband for dissolution of marriage under the provisions of Section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955. The applicant/wife has also filed a petition No.E-119/2020 for grant of maintenance under Section 125 of Criminal Procedure Code. In both the petitions, parties were same.

B] The marriage between the applicant and the non-applicant was solemnized as per Hindu rites and customs at Yavatmal on 17/03/2012. Out of their wedlock, one son was born on 07/03/2013 who is residing along with the non-applicant/husband.

3. The applicant/wife has alleged that after the marriage, the non-applicant and his relatives had started ill-treating her on the count that she has brought less dowry in the marriage. The non-applicant and his mother used to ill-treat her physically as well as mentally and also not taken care during her pregnancy, and therefore, she constrained to

leave the matrimonial house. It is further alleged that the non-applicant wanted to perform second marriage with another lady which was the other reason for her to leave the matrimonial house. She has also lodged the report to the police station Wadgaon Road, Yavatmal on 25/02/2017 and thereafter she filed an application under Section 125 of Cr.P.C. for grant of maintenance as well as under Section 9 of Hindu Marriage Act, 1955 before the Family Court whereas the non-applicant has filed a petition for dissolution of marriage as the applicant/wife has left the matrimonial house and not cohabited with him. The non-applicant has resisted the claim of the applicant by filing his written statement and denied all the adverse allegations levelled against him. He has denied that there was ill-treatment at his hand as well as at the hands of his mother to the applicant/wife. He has also denied that he has maintained illicit relations with one lady.

4. Taking into contrary contentions of both the sides, the necessary issues are framed by the Family Court and while answering the said issues the Family Court has observed that the applicant/wife has filed the petition for grant of maintenance at the rate of Rs.20,000/- per month from non-applicant under Section 125 of the Cr.P.C. Her allegation is that she was treated with ill-treatment as well as the non-applicant was having illicit relations with one lady. She has further

contented that the non-applicant is working as an Instructor in Government ITI college and earning Rs.60,000/- per month and also getting rent income of Rs.1,50,000/-. Thus, he is having sufficient means to grant maintenance to the wife.

5. *Per contra*, it is submitted by the non-applicant that the applicant is also earning for her livelihood, and therefore, she is not entitled for the maintenance.

6. The Family Court after considering the evidence on record held that the non-applicant is having sufficient means to grant maintenance and also held that there was ill-treatment at the hands of the non-applicant, and therefore, the applicant is entitled for grant of maintenance and granted maintenance at the rate of Rs.10,000/- per month from the date of the application.

7. Being aggrieved and dissatisfied with the same, the applicant filed this revision for enhancement of the maintenance on the ground that though she is earning something for her livelihood she has every right to live the life as per the status of her husband, and therefore, the amount granted as a maintenance to the tune of Rs.10,000/- is a meager amount. Even adding the amount, earned by her

by doing some job which is not sufficient to lead the life as per the status of her husband, and therefore, the amount of maintenance be enhanced.

8. Learned Counsel for the applicant reiterated the said contentions and invited my attention towards the affidavit filed by the non-applicant before the Family Court as to the assets and liabilities which shows that general monthly expenses of the applicant (rent, household expenses, medical bills and transportation) is Rs.1,00,000/-. The said affidavit also discloses his monthly income as Rs.71,000/-. He further invited my attention towards the observation of the Family Court and submitted that the Family Court has observed that besides the income from the service, he is having agricultural land in the name of his mother and drawing income from the said land also, and therefore, he is having sufficient means and considering the same, granted maintenance at the rate of Rs.10,000/- which is insufficient for leading the life as the prices of the essential commodities are touching to the sky.

9. Learned Counsel for the non-applicant supported the judgment of the Family Court and submitted that Family Court has rightly considered that the non-applicant is maintaining his son. He has to maintain his mother also and he has to incur the expenses towards them. On the contrary, the applicant is serving and drawing net salary of

Rs.10,280/- by doing a private job. In addition to that, the Family Court has granted maintenance to her at the rate of Rs.10,000/-, and therefore, she is getting sufficient means for leading her life.

10. A very limited issue is raised in the present revision application that whether the applicant is entitled for a maintenance at the higher rate.

11. I have perused the evidence on record as well as the impugned judgment, which shows that the non-applicant is serving in a Government ITI college and at the relevant time, was drawing gross salary of Rs.50,712/-. The evidence on record further shows that there was an agricultural land in the name of his mother and he is earning from the said agricultural land also. He has also filed his affidavit in support of his contention. The said affidavit shows his general monthly expenses to the tune of Rs.1,00,000/- whereas his salary i.e. monthly income is shown as Rs.71,000/- including all the allowances. There is no dispute as to the fact that the applicant is also serving and doing a private job and drawing salary of Rs.10,280/-. Thus, the evidence on record shows that the applicant is getting Rs.10,280/- from her salary and Rs.10,000/- as a maintenance.

12. Learned Counsel for the non-applicant placed reliance on the decision of Rinku Baheti Vs. Sandesh Sharda [MANU/SC/1374/2024] and invited my attention towards the paragraph No.14.5 wherein it is observed by the Hon'ble Apex Court 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 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 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?”

13. 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 [(2024) 7 SCR 942]**, wherein 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 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.”

14. In another decision in **Vinny Paramvir Parmar vs. Paramvir Parmar [(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 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.

15. In the case of Rajnesh vs. Neha [(2021) 2 SCC 324], elaborated 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 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.

16. In the light of the above factors narrated by the Hon'ble Apex Court, if the facts of the present case are taken into consideration admittedly, the Family Court has granted maintenance to the applicant @ Rs.10,000/-. In addition to that, she is doing a private job and earning approximately the similar amount i.e. Rs.10,280/-. The evidence on record shows that at the relevant time, when the evidence of the husband was recorded, at that time he was drawing salary of Rs.71,000/-. His monthly expenses appears to be approximately Rs.1,00,000/- which sufficiently shows that there are sufficient means for the husband to grant maintenance. Merely because wife is earning

for her livelihood some amount, is not sufficient to deny her any further maintenance. The applicant was residing along with her husband and was leading the life as per the status of her husband, and therefore, her comfort considering the status of the husband and other needs are to be taken into consideration. Nowadays, the prices of the essential commodities are also touching to the sky. She has to incur the expenses towards the house and rent of the house and other needs i.e. clothing, food and shelter. At the same time, the Court has to consider the responsibilities shouldered by the husband also and thereafter the Court has to balance it. After balancing all these factors, it would be appropriate to enhance the maintenance by additional Rs.5000/- and it would be in the interest of justice. In view of that, the revision application deserves to be partly allowed. Accordingly, I proceed to pass following order:

- (i) The application is partly allowed.
- (ii) The maintenance granted by the Family Court, Yavatmal granting maintenance at the rate of Rs.10,000/- per month is enhanced @ Rs.15,000/- per month from the date of the order passed by the Family Court.
- (iii) The arrears of the amount shall be paid by the husband within two months to the applicant/wife.

(iv) The non-applicant/husband shall pay the maintenance amount on or before 10th of every month.

(v) The cost of this revision application be paid to the applicant/wife by the non-applicant/husband @ Rs.10,000/-.

17. The criminal revision application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*