



Judgment

9-Cr.WP-1002-2024

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

CRIMINAL WRIT PETITION NO. 1002 OF 2024

...

Vinod Krushnarao Khare,
Aged 53 Years, Occu. Service,
R/o. Ashta (Wai Bazar),
Tah. Mahur, Dist. Nanded.

... **PETITIONER**

- - **V E R S U S** - -

1] Sau. Samata Vinod Khare,
Aged 44 Years, Occu. Household,
R/o. C/o. Bharat Ambadas Ladhe,
Mahalaxmi Nagar, (Istari Nagar), Khapri,
Tah. Ghatanji, Dist. Yavatmal.

2] The State of Maharashtra,
Through DGP Session Court,
Yavatmal.

... **RESPONDENT**

Mr. V.M. Patre, Advocate for the Petitioner.

Mr. S.A. Sahu, Advocate with Ms. A.G. Dhatrak, Advocate for
the Respondent.

CORAM : M.M. NERLIKAR, J.

DATE : SEPTEMBER 29, 2025.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. This petition is challenging the order dated 25/01/2024 passed by the Learned Sessions Judge, Yavatmal, in Criminal Revision Application No.33/2022, whereby the petitioner was directed to pay maintenance amount of Rs.4,000/- to the respondent No.1 from the date of filing of the application under Section 127 of the Code of Criminal Procedure, 1973.

3. Brief facts of the case are that:

The marriage between the petitioner and the respondent-wife was solemnized in the year 1997. Out of the said wedlock, one child was born. Due to matrimonial

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differences, the parties separated. Initially, the respondent-wife (Respondent No.1) filed an application under Section 125 of the Criminal Procedure Code, seeking maintenance. However, by order dated 31/01/2002, the learned Magistrate rejected her claim for maintenance, but granted a sum of Rs.800/- per month towards the maintenance of the minor son. Both parties challenged the said order by filing revision petitions. The Revisional Court, while disposing of the revisions, awarded maintenance of Rs.800/- per month to the respondent-wife as well. Subsequently, in the year 2013, the respondent-wife filed an application under Section 127 of the Cr.P.C. seeking enhancement of maintenance. The learned Judicial Magistrate First Class, Ghatanji, allowed the application and enhanced the maintenance to Rs.2,500/- per month in favour of the respondent-wife and her son. Again, in the year 2018, the respondent-wife filed another application for enhancement of maintenance, claiming an amount of Rs.20,000/- per month. However, by order dated 25/07/2022, the learned Judicial

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Magistrate, Ghatanji, partly allowed the application and enhanced the maintenance amount to Rs.4,000/- per month, payable from the date of the order.

4. Aggrieved by the said order, the respondent-wife preferred a Revision before the learned Sessions Judge, Yavatmal. By order dated 25/01/2024, the learned Sessions Judge, maintained the order of maintenance, however, it was directed to the petitioner to pay the amount of maintenance from the date of filing of the application. Being aggrieved and dissatisfied with the said order dated 25/01/2024 passed by the learned Sessions Judge, Yavatmal, the petitioner has preferred the present Writ Petition under Article 227 of the Constitution of India.

5. I have heard both the parties. The learned counsel for the petitioner submits that the Judicial Magistrate First Class, Ghatanji, has exercised his discretion and granted the

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maintenance amount from the date of the order. However, the learned Sessions Judge, Yavatmal, erred in granting the maintenance amount from the date of filing of the application. The counsel further submits that the order dated 25/01/2024, which grants maintenance from the date of the application, is *per se* illegal, as there is no evidence on record to justify the wife's entitlement to maintenance from the date of filing of the application. On the contrary, the learned Judicial Magistrate First Class, Ghatanji, after assessing the evidence, directed that the maintenance be paid from the date of the order.

6. On the other hand, the learned counsel for the respondent submits that the maintenance amount, either under Sections 125 or 127 of the Cr.P.C., should be granted from the date of the application. He further submits that the learned Judicial Magistrate First Class, Ghatanji, committed a grave error in this regard, and consequently, the respondent-wife has approached the Revisional Court by filing a Revision Petition.

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The Revisional Court, after considering various judgments and the legal principles laid down therein, rightly passed the order granting maintenance from the date of the application. The counsel argues that the Revisional Court correctly concluded that the respondent-wife is entitled to maintenance from the date of the application, and therefore, prays that the writ petition be dismissed.

7. Upon considering the rival submissions and after going through the impugned orders, it appears that the application under Section 127 of the Cr.P.C. was filed by the respondent-wife before the learned Judicial Magistrate First Class, Ghatanji, seeking enhancement of the maintenance amount. The application was allowed, and the maintenance amount was enhanced, but the maintenance was granted from the date of the order rather than from the date of the application. Therefore, the respondent-wife challenged it in Revision, and the Revisional Court granted the enhanced

maintenance from the date of the application.

8. The only question before me, as was argued by learned counsel for both the parties, is whether the enhanced maintenance under Section 127 of the Cr.P.C. should be granted from the date of the order or from the date of filing of the application. Under such circumstances, it would be useful to refer to the judgment of the Supreme Court in ***Rajnesh v. Neha & Anr., (2021) 2 SCC 324***, wherein, the Supreme Court has dealt with various laws in respect of grant of maintenance. The specific question regarding the date from which maintenance is to be granted was dealt with in detail in Paragraph No. 109, which reads as follows:

“109. 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.P.C., it would be

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appropriate to grant maintenance 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.”

9. Therefore, after analyzing the judgments wherein different views are taken by the different High Courts, the Supreme Court has taken into consideration all the relevant judgments, and ultimately came to the conclusion in Para no.109, holding that the maintenance in all cases should be granted from the date of the application. More specifically, the Supreme Court has considered that delay in disposal of the applications and keeping those applications pending for years together would naturally deprive the wife from getting the maintenance, and therefore, the Supreme Court held that “*It would therefore be in the interests of justice and fair play that*

maintenance is awarded from the date of the application.”.

Thus, in the interests of justice and fair play, maintenance ought to be awarded from the date of the application.

10. As was argued by the learned counsel for the petitioner, the criteria for granting maintenance under Section 125 of the Cr.P.C. would not be applicable to proceedings under Section 127 of the Cr.P.C., as it pertains merely to enhancement and not to the determination of maintenance. However, this submission is not tenable. The Supreme Court, after discussing the provisions of maintenance provided under various laws, has rendered a clear finding in the concluding part of the judgment, under the caption "*Final Directions*." Specifically, at Clause (d) "***Date from which maintenance is to be awarded***," the Court has unequivocally held: "*131. We make it clear that maintenance in all cases will be awarded from the date of filing the application for maintenance, as held in Part B – IV above.*"

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11. Therefore, even the application filed under Section 127 of the Code of Criminal Procedure, wife would be entitled for claiming maintenance from the date of application, and therefore, the findings rendered by the Revisional Court, in my opinion, are correct and there is no perversity in the said order. Accordingly, there is no merit in the contentions raised by the petitioner. Hence, the following order:-

ORDER

- (i) The Criminal Writ Petition is **dismissed**.
- (ii) Rule stands discharged.

[**M. M. NERLIKAR, J**]