



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

CRIMINAL REVISION APPLICATION NO.66 OF 2025

Umesh Nathhuji Nagpure, Aged about 38 years, Occup. Agriculturist, R/o Khamgaon Post. Talegaon Yavatmal, Tq. and Dist.Yavatmal. Applicant.

-Versus-

Archana Umesh Nagpure, Aged about 34 years, Occup. Housewife, R/o C/o Maroti Keram Police Constable. City Police Station Yavatmal, Tq. And Dist. Yavatmal. Non-applicant.

Mr.V.D.Darne, Adv.for the applicant.

CORAM :MRS. VRUSHALI V. JOSHI, J.

Reserved on :- 17/09/2025

Pronounced on:- 20/09/2025.

JUDGMENT:-

- 1) Heard.
- 2) **Rule.** Rule made returnable forthwith. This Criminal Revision Application is heard finally.
- 3) The applicant has challenged the order passed by the Family Court, Yavatmal, in Petition E. No.89 of 2021 granting maintenance of Rs.1500/- per month to the petitioner. It is the case of the applicant that the applicant and the non-applicant are the husband and wife. Their marriage was solemnised on 29/04/2007. They have one

daughter and one son out of said wedlock. It is the allegation of the applicant that the non-applicant has left the house without any reason as she has established extramarital relations with police constable Maroti Keram and she is staying with him at Yavatmal. The children are staying with this applicant. The applicant is the patient of Chronic Schizophrenia and because of which, he is unable to do any work. The parents of the applicant are agriculturists and he is dependant on the parents for his livelihood. The applicant has stated that he has made allegations about the adultery and has given the evidence. The non-applicant has cross-examined the applicant, PW-2, who is the daughter of the applicant and non applicant and PW-3, who is the relative of non-applicant. However, nothing is brought on record to disbelieve he version about adultery. The learned Family Court has not considered the evidence of these three witnesses and granted the maintenance of Rs.1500/- per month to the applicant.

4) The learned counsel appearing for the applicant has pointed out that the non-applicant in this application is served on the address of the said Police Constable, Maroti Keram, and she has acknowledged the receipt too. Though she is served, failed to appear before this Court. As per section 125(4) of the Criminal Procedure Code, if the wife is living in adultery, she is not entitled for the maintenance. Considering the legal position, has prayed to set aside

the order passed by the Family Court, Yavatmal.

5) Heard the learned counsel appearing for the applicant.

6) The non applicant is not present before this Court since beginning. On perusal of record, it appears that the applicant has filed his evidence on affidavit and has stated about the adultery committed by the non-applicant. On perusal of cross-examination nothing is brought on record to disprove the evidence of this applicant. He has not been cross-examined about the allegations made regarding the adultery. The applicant has examined two witnesses. The daughter of the applicant she has stated that she herself and her brother are staying with the applicant and their mother is not staying with them. From her evidence, it appears that the quarrel took place between the applicant and the non-applicant as the clothes of the other person were found in the bag of non applicant and therefore, there was quarrel and she fell down on the door and has received injury. She has stated that her father is not consuming liquor and her mother did not talk with her and her brother. One witness Lata Tarachan Shiware is examined. She is the paternal aunt of the non-applicant and also the relative of the applicant. She has stated about non-applicant's illicit relations with said Maroti Keram and stated that non-applicant is staying with him at Yavatmal. Only suggestion that she is giving false statement about Maroti Keram is not sufficient to disprove her statement. Non

applicant has not denied that the non applicant is staying with Maroti Keram. On the contrary, in the cross-examination, it is brought on record that false allegations are made against said Maroti Keram. It appears from the record that evidence of these witnesses is not properly considered by Family Court. Non-applicant is staying separately. She was served on the address of the person against whom the allegations are made about adulterous relations. Therefore, the order passed by the Family Court, Yavatmal needs to be quashed and set aside and the matter is remanded back to the Family Court, Yavatmal to consider the evidence of the witness properly, while considering the maintenance petition.

7) Criminal Revision Application stands disposed of.

(MRS.VRUSHALI V. JOSHI, J)