



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

CRIMINAL WRIT PETITION NO. 378 OF 2025

Sau. Sushila W/o Nana Shirale,
Aged about 50 Years, Occ. Household,
R/o Shraddha Nagar, Khadki BK,
Tq. & Dist. Akola, P.S. Khadan, Akola. **PETITIONER**

Versus

Nana S/o Vakila Shirale,
Aged about 52 Years, Occ. Service,
R/o Irrigation Colony, Mahan,
Tah. Barshitakli, Dist. Akola. **RESPONDENT**

Mr. N.L. Jaiswal, Advocate for the Petitioner.
Mr. U.G. Sadanshio, Advocate for the Respondent.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 6th AUGUST, 2025.

ORAL JUDGMENT :-

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by the consent of learned Counsel appearing for the respective parties.

3. By this Writ Petition, the Petitioner has challenged the order passed by the Additional Session Judge, Akola to the extent of partly allowing the Criminal Revision Application No. 138/2023 directing the present Respondent to pay the amount of maintenance at the rate of Rs.7,000/- per month from the date of order. By this Writ Petition, the Petitioner further seeking an enhancement of the maintenance amount at the rate of Rs.15,000/- per month.

4. The brief facts which are necessary for the disposal of the present Petition are as follows:-

4(i). The Petitioner is a legally wedded wife of the Respondent. They were married on 15.06.1996 at Village Kherda Tah. Barsitakli, Dist. Akola as per their rites and customs. Applicant No.2 is the son from their wedlock. After the marriage the Petitioner resumed the cohabitation at the house of the present Respondent. Initially she was treated well and thereafter she was ill-treated, and therefore, she constrained to leave the matrimonial house and started residing at her parents house.

4(ii). Thereafter she filed an application for grant of maintenance which was allowed and maintenance at the rate of Rs.350/- per month to the Applicant No. 1 and Rs.200/- per month to the Applicant No.2 was granted by the judgment and order dated 17.03.1999 by Judicial Magistrate First Class, Barshitakli. Thereafter she filed Misc. Cri. Application No. 2052/2015 before the Judicial Magistrate First Class, Akola for enhancement of the maintenance under Section 127 of Cr.PC. Considering the change in circumstances and hike in the salary, the Judicial Magistrate First Class (Court No.4), Akola has enhanced the amount of maintenance at the rate of Rs.7,000/- per month from the date of the application.

4(iii). Being aggrieved and dissatisfied with the same, the Petitioner as well as the Respondent both have preferred the Criminal Revision Application Nos. 138/2023 & 159/2023. The Additional Sessions Judge, Akola partly allowed the Criminal Revision of the Respondent and directed to pay the maintenance from the date of the order i.e. from 15.09.2023, whereas the Revision of the present Petitioner for enhancement of the maintenance was dismissed.

4(iv). Being aggrieved and dissatisfied with the same, the present Petition is filed by the present Petitioner for enhancement of the maintenance amount and for quashing and setting aside the order passed by the Additional Sessions Judge, Akola granting maintenance from the date of the order.

5. Heard learned Counsel for the Petitioner who submitted that the Respondent is serving as a Watchman in Irrigation Department and drawing a salary of Rs.83,274/- and no other person is dependent on him. After deduction he is getting salary of Rs. 56,487/-. Thus, he is having sufficient means to grant maintenance to the present Petitioner. The Petitioner has to maintain herself, she has to incur the expenses towards his son's education clothing and day to day needs. The amount of maintenance granted by the Judicial Magistrate First Class enhancing the amount is a meager amount and it is very difficult for the Petitioner to maintain her son as well as herself from the said amount. On the contrary, the Respondent is not having any other responsibility and nobody is dependent on him, and therefore, the maintenance amount be enhanced.

6. *Per contra*, the learned Counsel for the Respondent

submitted that, the amount of maintenance granted by the Judicial Magistrate First Class at the rate of Rs.7,000/- per month is sufficient amount. Though the present Respondent is not having responsibility of anybody but he has to pay the installment towards loan which he has been obtained for his basic needs, and therefore, there is no sufficient means to enhance the maintenance amount. With this submission, he submitted that the Writ Petition itself deserves to be dismissed being devoid of merits.

7. After hearing both the sides and on perusal of the entire record, as far as the relationship between the Petitioner and the Respondent is concerned is husband and wife which is not disputed. It is also not disputed that, the Respondent is serving as a Watchman and drawing salary of total Rs.83,274/- which is gross salary, whereas after deduction he is getting Rs.56,487/-. The salary certificate for the month of June 2025 shows that, after deduction he is receiving the salary of Rs.56,487/-. The Judicial Magistrate First Class has considered that he is serving as a Watchman and drawing salary and thereafter granted maintenance in the year 2023 at the rate of

Rs.7,000/-.

8. It is contended by the learned Counsel for the Petitioner that, thereafter there is a hike in the salary. The Respondent is getting salary in view of 7th Pay Commission, whereas there is no responsibility on the present Respondent, and therefore, he is having sufficient means to pay the maintenance. The present Petitioner is having every right to live the life as per the status of her husband, however, she is unable to live the life as per the status of her husband in such a meager amount. Moreover, he submitted that the Petitioner and Respondent are having one son and the present Petitioner is maintaining him. She has to admit him in a good school and has to provide a good education for him and this is not possible in the meager amount of Rs. 7,000/-. Moreover, the prices of the essential commodities are touching to the sky. In the above said circumstances, it is difficult to live the life in such a meager amount. Moreover, the Additional Sessions Judge, Akola has erroneously allowed the Revision of the present Respondent and directed to pay the maintenance from the date of order.

9. Generally the amount of maintenance is to be paid

from the date of filing of the application i.e. M.C.A No. 2052/2015 filed on 19.12.2015. Thus, the Petitioner is entitled to receive the amount of maintenance at the rate of Rs.7,000/- from the date of application i.e. from 19.12.2015 and if this Court comes to the conclusion that she is entitled for the enhancement of the maintenance amount and it should be paid from the date of presenting the present Writ Petition.

10. In the light of the undisputed facts on record, now it has to be seen whether the Petitioner is entitled for the maintenance amount at the enhanced rate of Rs.15,000/- as she claimed.

11. I have perused evidence on record as well as the impugned judgment which shows that the Respondent is serving as a Watchman in Irrigation Department and drawing salary as mentioned above. The evidence on record further shows that the Petitioner is maintaining herself as well as her son and she has to incur the expenses towards the education and day to day needs of her son, and therefore, she requires the sufficient means to incur the said expenses. As far as the grant of maintenance is concerned and the aspect that the Petitioner is

entitled to live the life as per the status of her husband, is settled by the various judgments of the Hon'ble Apex Court. The law with respect to deciding the amount of maintenance is settled by various decisions.

12. 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.”

13. 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.

14. In another judgment in the case of ***Rajnish vs. Neha (2021) 2 SCC 324***, the Hon'ble Apex Court has 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.”*

15. 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 Judicial Magistrate First Class has granted maintenance to the Applicant by passing order on 15.09.2023, now this Writ Petition is filed in the year 2025, there is a hike in the salary. Thus, there are change in circumstances. Besides salary, the Respondent is also having agricultural land in the name of his mother and other family members and is getting income from the said landed property also. After deduction the Respondent is getting net salary of

Rs. 56,487/-. Though it is contended that, he has to pay the installment towards the loan, even considering the same that he has to pay he has sufficient means to pay the maintenance. As already observed that the Petitioner has a right to live the life as per the status of her husband. Nowadays, the prices of the essential commodities are touching to the sky, she has to incur expenses towards the rent of the house and other needs i.e., clothing, food and shelter as well as towards the responsibility of her son and towards his education and day to day needs. Therefore, the Court has to balance it. When balancing or other factor, the responsibility upon the Respondent to pay the loan amount is also requires to be considered. After balancing all these factors, it would be appropriate to enhance the maintenance at the rate of Rs.12,000/- per month from the date of presenting the present Writ Petition.

16. Generally the maintenance is to be granted from the date of application. The learned Sessions Judge, Akola without assigning any reason directed the present Respondent to pay the maintenance at the rate of Rs.7,000/- per month from the date of order, which is erroneous, and therefore, the said order of directing to pay maintenance from the date of order deserves to

be quashed and set aside. In view of that, I proceed to pass the following order.

ORDER

- i. The Writ Petition is **partly allowed**.
 - ii. The Petitioner is entitled to receive the amount of Rs. 7,000/- per month from the date of the application i.e. 19.12.2015 till filing of the said Writ Petition till 16.03.2025.
 - iii. The Petitioner is also entitled to receive the maintenance at the rate of Rs.12,000/- per month from the date of filing of the Writ Petition i.e. 16.03.2025.
 - iv. The parties to bear their own costs.
17. Rule is made absolute in the above terms.
18. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)