



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

CRIMINAL APPLICATION (APL) NO. 71 OF 2025

Indrajeet S/o. Baliram Rathod

Vs.

Sau. Manisha W/o. Indrajeet Rathod

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S. S. Shingane, Advocate for applicant.
Shri A. R. Chavhan, Advocate for non-applicant.

CORAM :- M. W. CHANDWANI, J.

DATED :- 22.04.2025

Heard.

2. The application challenges the order passed by the learned Judicial Magistrate First Class, Digra (for short, "JMFC") dated 01.06.2024 passed in Misc. Criminal Application No. 9/2020 thereby enhancing the amount of maintenance of the non-applicant- wife and their son- Utkarsh granted under Section 125 of the Code of Criminal Procedure (CrPC) which came to be confirmed by the learned Additional Sessions Judge, Darwaha in Criminal Revision No. 13/2024, dated 18.12.2024.

3. For deciding the present application, it is not necessary to go into the matrix of the case in detail. It will suffice to say that the applicant is the husband, the non-applicant is the wife and both of them are residing

separately. Their son- Utkarsh is residing with the non-applicant i.e. his mother.

4. By order dated 10.02.2014, the non-applicant was granted a total Rs.2500/- (Rs. 1500/- towards rent of the house and Rs.1,000/- towards financial support) in the proceedings filed under the provisions of Domestic Violence Act, 2005 (for short, “the DV Act”) and Rs.3,000/- each to the non-applicant and their son- Utkarsh towards maintenance under Section 125 of the CrPC. In the year 2020, by filing Misc. Criminal Application No. 9/2020, the non-applicant and her son- Utkarsh claimed enhancement in the maintenance amount under Section 127 of the CrPC alleging change in circumstances and increase in the salary of the petitioner. The learned JMFC allowed the said application partly and enhanced the maintenance of the non-applicant and their son- Utkarsh from Rs.3,000/- each to Rs.6,000/- each per month. An unsuccessful attempt was made by the applicant by filing Revision before the learned Additional Sessions Judge, Darwha. Feeling aggrieved with dismissal of the Revision by the learned Additional Sessions Judge, Darwha the present application came to be filed by the applicant.

5. Mr. Shingane, learned counsel appearing for the applicant has challenged the order of enhancement of maintenance amount mainly on two grounds. Firstly, the amount granted to the non-applicant under the DV Act

proceedings has not been considered by the learned JMFC while passing the order passed under Section 127 of the CrPC. Secondly, on the ground that inspite of the fact that, nothing has been filed by the non-applicant on record and the learned JMFC on surmises and conjunction enhanced the maintenance amount from Rs.3,000/- to Rs.6,000/-. According to him, the order does not sustain in the eyes of the law hence, it is required to be set aside.

6. The learned counsel for the applicant submits that he has no grievance with regard to increase in the amount of maintenance to their son but he has serious objections with regard to increase in the amount of maintenance granted to the non-applicant.

7. Conversely, the learned counsel appearing on behalf of the non-applicant submitted that a well reasoned order has been passed by the learned JMFC. According to him, though the non-applicant had claimed more but only an amount of Rs.3,000/- has been enhanced towards maintenance amount granted earlier to the applicant and their son. He supported the order of the learned JMFC. According to him, there is manifold increase in the salary of the applicant which has been considered by the learned JMFC. Hence, he sought rejection of the application.

8. Perusal of the earlier orders under Section 125 of the CrPC shows that earlier, the non-applicant was

granted Rs.3,000/- towards maintenance and Rs.3,000/- to her son- Utkarsh apart from an amount of Rs.2500/- towards rent and financial support has also been granted in the proceedings initiated under the provisions of the Domestic Violence Act.

9. It is a matter of record that both the orders have been passed by the same Judge on the same date i.e. on 10.02.2014. This order itself shows that while passing the orders of maintenance under Section 125 of the CrPC, the learned JMFC was aware of the grant of maintenance amount of Rs.2500/- granted in DV proceedings or vice-versa. Thus, the learned JMFC, after considering the amount of maintenance in each of the proceedings has passed the respective orders. Therefore, there is no question of adjusting the amount granted under the DV Act proceedings.

10. Needless to mention that as per the decision in the case of ***Rajnish Vs. Neha [2021 (2) SCC 324]***, the amount of maintenance in Domestic Violence proceedings is required to be adjusted towards maintenance granted earlier.

11. The next ground which has been taken by the learned counsel for the applicant is that there is no record to suggest that there is a change in circumstances. Therefore, according to him, the orders need to be set aside.

12. Concededly, the earlier order of maintenance was granted in the year 2014 on the application which has been filed in the year 2011. Whereas, the impugned order has been passed in the year 2024 i.e. after a gap of more than ten years. Though, she has not filed any document but, according to her, there is increase in the price of essential commodities as well as her son is growing up and studying in 10th standard. The gap of ten years itself is evident of which judicial notice can be taken about increase in the price of essential commodities.

13. Notably, the applicant has filed salary certificate before this Court for the month of December-2024. It shows the gross amount as Rs.69,038/- whereas the Government recoveries are shown as Rs.21,411/- and the non-governmental recoveries are shown as Rs.39,575/-. A bare perusal of the salary slip further reveals that an amount of Rs.10,000/- is deducted towards GPF and an amount of Rs.5,475/- is deducted towards LIC. As these deductions are not the expenses, considering a time gap of at most seven years and increase in the salary to the extent of Rs.69,038/- of the applicant which was Rs.16,538/- in the year 2011, I do not find force in the argument of the learned counsel for the applicant that enhancement of Rs.3,000/- towards maintenance amount is on the higher side. Also, the applicant did not challenge the order of enhancement of

the amount of maintenance to the son. According to him, he is ready and willing to maintain the son.

14. Hence, I do not see any merits in the application and it is dismissed.

(M. W. CHANDWANI, J.)