IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3315 OF 2019
IN REVNST/294/2019

SHARAD S/O. HANMANT PAWAR
VERSUS
KAVITA W/O. SHARAD PAWAR AND OTHERS
...
Shri Yenegure Apparao, Advocate for the Applicant.
Shri Dharashive M.L., Advocate for the Respondents.
...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 05 October 2026

P. C. :-

1. This is an application for condonation of delay in filing the revision application. There is delay of 03 days.

2. For the reasons stated in the application, delay of 03 days is condoned. **Criminal Application No.3315/2019 is allowed.** The instant Criminal Revision Application be registered.

3. By consent of the parties, the Criminal Revision Application is taken up for hearing.

4. The applicant/ husband is challenging the order

dated 20.06.2019 passed by the learned Additional Sessions Judge, Latur, in PWDVA Appeal No.11/2017 whereby, the said appeal came to be dismissed and the impugned order dated 20.01.2017 passed by the learned JMFC, Ausa, in Criminal Misc. Application No.23/2011 came to be confirmed. Vide the impugned order dated 20.01.2017, the applicant/ husband has been directed to pay maintenance of Rs.2000/- to the respondent/ wife and Rs.1000/- each to two children.

5. The learned advocate for the applicant submits that the maintenance granted vide the impugned orders passed by the learned Trial Court as well as the Appellate Court is too excessive and without considering the fact that the applicant being the labourer is unable to pay the said amount of maintenance. According to the learned advocate, both the Courts below have not taken into consideration the earning capacity of the applicant. Both Courts have not considered that there was no domestic violence at the instance of the applicant and therefore, both the Courts below are not justified in passing the impugned orders of granting monetary relief. The learned advocate, therefore, prays that the impugned orders be quashed and set

aside being illegal.

6. *Per contra*, the learned advocate for the respondents/ wife and children, strongly opposes the instant revision application. He submits that under the proceedings under Section 125 of the Code of Criminal Procedure, the applicant/ husband has been directed to pay the total amount of maintenance of Rs.1900/- per month whereas, vide the impugned orders in this case, he has been directed to pay the total amount of monetary relief of Rs.4000/- per month. According to the learned advocate, the children are school going and are on the verge of attaining majority. The impugned order of granting monetary relief directing the applicant to pay Rs.4000/- per month, is passed by taking lenient view against the applicant and after considering his earning capacity. Thus, the total amount of maintenance under both the proceedings is around Rs.6000/- per month, which is very meager considering day to day expenses of the wife and school going children. Though the respondents have not challenged the impugned order and have not sought for enhancement of maintenance, therefore, the impugned orders be maintained in order to meet day to day expenses of the wife and

children.

7. After hearing the learned advocates for the parties, it is evident that the wife has also instituted the proceedings under Section 125 of the Code of Criminal Procedure and the maintenance has been awarded by the learned JMFC, Ausa. However, the husband has not paid the said maintenance awarded under Section 125, therefore, the execution proceedings were initiated wherein, the husband paid Rs.25,000/-. Now, the wife has initiated the instant proceedings under the Protection of Women from Domestic Violence Act, 2005 wherein, the impugned order is passed directing to pay maintenance as above.

8. It is settled position of law that the revisional jurisdiction of this Court is limited and cannot be exercised as second court of appeal to re-appreciate evidence, unless there is patent illegality, perversity, or jurisdictional error in the impugned concurrent findings. Both the Courts below have considered the evidence on record, including the applicant's earning capacity as labourer and the day-to-day educational and living expenses of the growing children and the wife. The maintenance of Rs.4,000/- per month granted under the

Protection of Women from Domestic Violence Act, even when read alongside the relief granted under Section 125 of the Code of Criminal Procedure, is reasonable and bare minimum requirement for survival in today's inflation conditions. The applicant cannot shirk his social and moral obligation to maintain his wife and children under any pretext like insufficient income or some maintenance amount granted under the proceedings under Section 125. In this case, it is found that the amount of Rs.4000/- per month has been rightly granted by the Courts below considering the evidence brought on record. Consequently, in the absence of any procedural or legal infirmity in the concurrent orders of the Courts below, no interference is warranted under revisional jurisdiction. As no legal strong ground has been pointed out by the learned advocate for the applicant to entertain the instant revision, therefore, I find that the instant revision application deserves to be dismissed.

9. The Criminal Revision Application is dismissed.

kps (SUSHIL M. GHODESWAR, J.)