



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.203 OF 2025

1. Sau. Varsha @ Poonam Santosh Patil,
Age-35 years, Occu-Household,
2. Ku. Sejal Santosh Patil,
Age-9 years, Occu-Education
Applicant No.2 is the minor daughter of Applicant No.1
and his natural guardian as mother

Both R/o. Namdeo Nagar, Plot No. 20,
Gut No.171/2, Pimprala Shivar,
Behind Ashababa Mandir,
Near Railway Line, Jalgaon

...ORI. APPLICANTS

VERSUS

Santosh Manilal Patil,
Age-41 Years, Occu-Government Service,
R/o. House No. E 411, Urjanagar, GEB Colony,
Ukai, Tq. Songad, Dist. Tapi,
Gujrat

...RESPONDENT

Mr. M. M. Bhokarikar, Advocate for the Applicants
Mr. Kapil Morey, Advocate h/f Mr. J. V. Patil, Advocate for the
Respondent

CORAM : ABHAY J. MANTRI, J.

DATE : 30th APRIL, 2026

JUDGMENT :

1. Heard. **Rule.** Rule is made returnable forthwith and heard
finally with the consent of the learned Advocates of the parties.

2. The Applicants, i.e. wife and daughter, are dissatisfied with the judgment and order dated 02-05-2023 passed by the learned Judge of the Family Court, Jalgaon, in Petition No. E-28/2022, whereby the petition filed by the Applicants was partly allowed and granted maintenance of Rs. 4000/- per month to the Applicant No.1 and Rs. 2500/- per month to the Applicant No. 2 from the date of Application, have preferred this Application.

3. Heard the learned Advocate for the Applicants and learned Advocate for the Respondent and perused the impugned judgment and order as well as the record and the judgments relied on by the learned Advocate for the Applicants.

4. At the outset, it appears that the Applicants, being wife and daughter, have filed the petition for grant of maintenance under Section 125 of the Criminal Procedure Code (for short '*Cr.P.C.*') against the Respondent. After considering the material before it, the learned Family Court partly allowed the Petition and granted the maintenance as stated above. Being dissatisfied with the said impugned judgment and order, the Applicants have preferred this Revision Application.

5. It is pertinent to note that the Respondent does not dispute his relationship with the Applicants as well as the fact that he is

working at the Thermal Power Station in Gujarat as a Junior Assistant Engineer and getting a salary of Rs. 70,000/- per month.

6. Learned Advocate for the Applicants during the argument has placed reliance on the salary slips of the Respondent for the months of June, July and August of 2022 and submitted that as per the salary slips, the Respondent is getting a gross salary of Rs. 94,584/- and a net salary of Rs. 76,388/-. However, salary slips were not produced before the learned Family Court; therefore, the learned Family Court did not consider them. However, it erred in awarding meagre maintenance, holding that the Applicants failed to bring anything on record. He relied on the judgment of the Hon'ble Supreme Court in *Kalyan Dey Chowdhury Vs Rita Dey Chowdhury Nee Nandy*, AIR 2017 SC 2383, and submitted that in view of the observations made therein, the Applicants are entitled to 33% maintenance of the net salary, and therefore, he urged accordingly.

7. As against the learned Advocate for the Respondent strenuously opposed the said Application, contending that his parents and one daughter are dependent on the Respondent. So, the order passed by the learned Judge is just and proper, and no interference is required in it. Hence, he urged the dismissal of the Revision Application.

8. On perusal of the impugned judgment and order, it appears that in para 12 of the impugned judgment, the learned Judge has categorically observed the contentions of the Applicants that the Respondent is working at Thermal Power Station as a Junior Assistant Engineer and getting a salary of Rs. 70,000/-. However, held that the Applicant No. 1 failed to bring anything on record in that behalf. But, it is observed that the Respondent is an able-bodied person. Therefore, liable to pay the maintenance as awarded. It is pertinent to note that the Applicants, in their Application in para 12, as well as the Applicant No.1 in her evidence, categorically stated and deposed that the Respondent is working as a Junior Assistant Engineer and is receiving a salary of Rs. 70,000/- per month. Said averments in the Application, as well as evidence, remained unchallenged. Therefore, in the absence of a challenge, there is no reason for the learned Judge to disbelieve her contention in that regard. However, the learned Judge has erred in observing that the Applicants have not produced any of the documents on record to demonstrate that the Respondent is working as a Junior Assistant Engineer and getting a salary of Rs. 70,000/-. Though the learned Judge in para 11 observed that there is no reason to disbelieve the oral testimony of the Applicant No. 1, being unchallenged evidence. Despite the said fact, the learned Judge has awarded only

maintenance of Rs. 4000/- and Rs. 2500/- respectively to the Applicants. The said findings appear incorrect.

9. Learned Advocate for the Applicants, along with the Revision Application, has produced three salary slips for the months of June, July and August of 2022 [page Nos. 35, 36 & 37] of the Respondents on record wherein his gross salary is mentioned as Rs. 87,794, Rs. 62,161 and Rs. 94,584, and net pay is mentioned as Rs. 71,765/-, Rs. 50,086/- & Rs. 76,388/-, which is not disputed by the learned Advocate for the Respondent. A bare perusal of the said salary slips indicates that the Respondent is working as a Junior Assistant Engineer with the Thermal Power Station, Gujarat. The Respondent's *average gross salary appears to be Rs. 81,513/-*, and *the net salary appears to be Rs. 66,080/-*. Thus, it clearly appears that the Respondent is getting a salary of more than Rs. 70,000/- per month. Therefore, the maintenance granted by the learned Judge appears to be too meagre to satisfy the daily needs of the Applicants. Applicant No. 2 is the minor daughter and is taking an education, and therefore, in my view, the said order is liable to be modified.

10. In *Kalyan Dey*, the Hon'ble Supreme Court, following the law laid down in *Dr. Kulbhushan Kumar Vs Raj Kumari, and Anr, (1970) 3 SCC 129*, held that the wife is entitled for 25% of the husband's net

salary, which is just and proper. In the said matter, the husband was earning Rs. 95,000/-, and maintenance of Rs. 20,000/- per month was granted to the wife, which was enhanced to Rs. 23,000/-.

11. It is pertinent to note that Section 125 of the Code of Criminal Procedure is a social welfare provision, which must be subjected to an extensive beneficial concern, and this understanding has been extended to maintenance. Similarly, it must be borne in mind that the right to maintenance under Section 125 of the Code of Criminal Procedure is not a benefit received by the wife and children. Still, rather a legal and moral duty owed by the husband/father to maintain his wife and children. Undisputedly, the wife and daughter do not reside with the husband, and the husband is not paying sufficient maintenance to them. This alone is sufficient to grant them requisite maintenance.

12. Apart from that, the fact is that due to the dispute between the husband and wife, the daughter is suffering. It is a settled position of law that a son/daughter should not be suffered due to a conflict between his/her parents. Therefore, as per law laid down by the Hon'ble Supreme Court in a catena of judgments, it is the bounden duty of the husband/father to provide the educational fees of his son/daughter.

13. Thus, considering the above discussion, it appears that the Respondent is working as a Junior Assistant Engineer in the Thermal Power Station, Gujarat, and earns approximately Rs. 70,000/- per month. Therefore, the Applicants, being the wife and daughter, are entitled to Rs. 10,000/- each per month. Therefore, in my view, it would be appropriate to modify the maintenance amount awarded by the learned Family Court to the Applicants. To that extent, interference is required in the impugned judgment and order.

14. As a result, **the Revision Application is partly allowed.** Consequently, the impugned judgment and order dated 02-05-2023, passed by the learned Judge of the Family Court, Jalgaon, in Petition No. E-28/2022 is hereby modified to the extent of clause No.2 of the operative part of the order, which now reads as under:

i] The Respondent shall pay Rs. 10,000/- each per month to the Applicant Nos. 1 and 2, respectively, towards maintenance allowance from the date of this Revision Application.

15. The Respondent is directed to pay the arrears of maintenance amount, if any, to the Applicants within sixty days from the date of this order, failing which, the Applicants are entitled to recover the same by following due process of law.

16. Rule is made partly absolute in the above terms. No order as to cost. The Revision Application is disposed of.

[ABHAY J. MANTRI, J.]

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