



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

CRIMINAL REVISION APPLICATION NO. 257 OF 2024

Pradeep Parasharam Goyal
Age: 36 years, Occu.: Mansevi Medical
Officer (Contractual Job),
R/o. Khandoji Nagar, Upper Floor,
Tq.Taloda, District Nandurbar.Applicant

Versus

1. Jyoti Pradeep Goyal
Age: 35 years, Occu.: Ekalavya Residency
School, Superintendent (Government Job)
R/o. Soygaon, Tq.Soygaon.
District Aurangabad.
At present Eklavya Residency School,
Dongargaon Road, Nandurbar,
Tq. and Dist. Nandurbar.
2. Vivek Pradeep Goyal
Age: 5 years, Occu.: Education,
R/o. U/G. of his mother i.e.
Respondent no.1.Respondents

.....

Advocate for Applicant : Mr. Mayur B. Borse

Advocate for Respondents : Ms.Sharayu Dhanture h/f.

Mr.Ravindra Vitthal Gore

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 06 FEBRUARY 2026

PRONOUNCED ON : 11 FEBRUARY 2026

JUDGMENT :

1. Revision petitioner husband hereby takes exception to the judgment and order dated 16-08-2024 passed by learned Additional

Sessions Judge, Court No.7, Aurangabad in PWDVA Appeal No.32 of 2024 by which order of grant of interim maintenance dated 14-03-2024 passed below Exh.3 in Cri.M.A.No.102 of 2023 by the learned Judicial Magistrate First Class, Soygaon, District Aurangabad, has been upheld.

2. Learned counsel for revision petitioner submits that, there is no dispute that revision petitioner and respondent no.1 are husband and wife. However, respondent no.1 wife has left his company without just and sufficient cause. He further pointed out that, moreover, wife is working as Superintendent in Eklavya Residency School. That, she is earning salary to the tune of Rs.25,000/- per month. That, there being independent and own source of income, she is not entitle for any maintenance. According to him, learned trial Court has failed to consider her such income as well as her qualification. According to him, affidavit of evidence placed on record by the parties are not correctly appreciated by the learned trial Court as well as learned First Appellate Court and learned First Appellate Court has merely confirmed order of the learned trial Court without giving distinct reasoning. Further learned counsel submits that he has no objection for continuing grant of maintenance to the son to the tune of

Rs.3,000/- per month. For above reasons, he urges to set aside the impugned orders passed by the learned trial Court and learned First Appellate Court as regards to maintenance granted to wife is concerned i.e. by allowing instant revision application.

3. Per contra, learned counsel for respondent no.1 wife would support the orders of learned trial Court and learned First Appellate Court. She would submit that, the wife was shown to be employed in Eklavya Residential School, but it was only while proceedings was instituted before the learned trial Court and currently she is not having any job. Moreover, it is an interim maintenance granted by the learned trial Court. She pointed out that, husband earns handsomely by working as Government Officer i.e. a Doctor and also independently earning from professional income. According to her, both learned trial Court as well as learned First Appellate Court have correctly appreciated oral and documentary evidence and the same does not require any interference in the revision.

4. Perused the record. Heard both the sides. I have gone through the Affidavit of Assets and Liabilities of respondent no.1 filed at Exh."D" and Appointment Order of respondent no.1 filed at Exh."E"

and salary certificate.

5. This Court is called upon to exercise revisional powers invested upon it under Section 397 read with Section 401 of the Code of Criminal Procedure. Therefore, it would be appropriate to spell-out judicial precedent on the point of scope and object of revision under Section 397 of the Code of Criminal Procedure.

While exercising powers under section 397 of the Cr.P.C., this Court is merely expected to test the legality, propriety or illegality in the findings recorded by learned trial court. Such powers are to be exercised to prevent miscarriage of justice and when there are glaring errors on the face of order or there is failure and non compliance of law. Re-appreciation is to be avoided unless findings are patently perverse and as such, there is the narrow scope of revisional court. Law regarding the scope of revision is elucidated in catena of judgments. Though there are catena of judgments, the landmark judgment of *Amit Kapoor v. Ramesh Chander and another*, (2012) 9 SCC 460 is relied and the relevant observations therein are borrowed and quoted as under :

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior

court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are no exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits."

6. Therefore, only scope for this Court is to ascertain as to whether there is illegality or perversity or there is any patent error on the face of record in the orders passed by the learned trial Court or the First Appellate Court.

After considering submissions of both the sides, it seems that present respondent no.1 instituted proceedings under the Protection of Women from Domestic Violence Act (DV Act) before the learned Judicial Magistrate First Class, Soygaon by invoking provisions under

Section 12 of the DV Act, seeking several reliefs including relief of grant of interim maintenance. It appears that by order dated 14-03-2024 passed below Exhibit 3 in Misc.Criminal Application No.102 of 2023, learned trial Court has granted interim maintenance to the tune of Rs.3,000/- per month to wife and Rs.3,000/- per month to the son. The present revision petitioner took exception to the above order in the First Appellate Court wherein similar grounds were raised that wife works and therefore, she has independent source of income. That, she does not need financial support, more particularly, when she is qualified. According to learned counsel for revision petitioner, there is incorrect appreciation of affidavits as well as other documentary evidence adduced by the revision petitioner. He pointed out that even husband has other liabilities but the same have not been taken into account by the learned Courts below.

7. A short question, which is raised in the instant case is that in spite of sufficient means and source of income by the respondent no.1 wife, whether the husband is required to pay maintenance to her.

The learned trial Court seems to have awarded interim maintenance of Rs.3,000/- per month each to wife and son. There is

no dispute that husband is in Government service and is a professional Doctor. Though, he asserted that wife is in service in Eklavya Residency School, statement is made across the bar by learned counsel for respondent no.1 wife that currently, wife is not working in the said School. Even otherwise, when wife is having independent source of income and it is shown to be insufficient, husband is liable to pay maintenance and accordingly, interim maintenance granted by learned trial Court seems to be just and proper.

By the impugned order, only interim maintenance has been granted by the learned trial Court and the same is not shown to be exorbitant. Therefore, there is no illegality or perversity in the impugned order of the learned trial Court. Even there is no illegality or error in the order of the learned First Appellate Court. Hence, there being no merits in the revision, the same is required to be dismissed. Accordingly, following order is passed :

ORDER

Criminal Revision Application No.257 of 2024
stands dismissed.

(ABHAY S. WAGHWASE)
JUDGE

