



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 225 OF 2025
WITH
CRIMINAL APPLICATION NO.2629 OF 2025

Shaikh Aref S/o. Shaikh Mahemud,
Age : 52 years, Occu. : Service,
R/o. General Hospital Quarter, General Hospital,
Jalna - 431 213

... Applicant
[Orig. Respondent]

Versus

1. Rubina Bano W/o. Shaikh Aaref,
Age : 44 years, Occu. : Household,
R/o. C/o. Mansoor Baig, Jay Nagar,
Reogaon Road, Jalna,
Tq. & Dist. Jalna - 431 203.
2. Ku. Arbina Bano D/o. Shaikh Aaref,
Age : 21 years, Occu. : Tuition/Classes,
R/o. C/o. Shaikh Salman Shaikh Kayyum,
Civil Hospital Quarter, Beed,
Tq. and Dist. Beed.

... Respondents.
[Orig Applicant]

AND

CRIMINAL REVISION APPLICATION NO. 216 OF 2025

Shaikh Aref S/o. Shaikh Mahemud,
Age : 52 years, Occu. : Agri.,
R/o. General Hospital Quarter, General Hospital,
Jalna - 431 213

... Applicant
[Orig. Applicant]

Versus

1. Rubina Bano W/o. Shaikh Aref,
Age : 44 years, Occu. : Tailoring,
R/o. C/o. Mansoor Baig, Jay Nagar,
Reogaon Road, Jalna,
Tq. & Dist. Jalna - 431 203.

2. Arbina Bano D/o. Shaikh Aref,
Age : 21 years, Occu. : Tuition/Classes,
R/o. C/o. Shaikh Salman Shaikh Kayyum,
Civil Hospital Quarter, Bashriganj, Beed,
Tq. and Dist. Beed.

... Respondents.
[Orig Respondents]

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Mr. Sayed Rahmat Ali Hamidali, Advocate for Applicant/Petitioner.
Mr. L. S. Shaikh, Advocate for Respondent Nos.1 and 2.

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 28 JANUARY 2026
PRONOUNCED ON : 30 JANUARY 2026

ORDER :

1. The revisionist husband hereby takes an exception to the orders dated 10.04.2025 below Exh.01 passed by learned Family Court, Jalna in Cri. M.A. No. 08 of 2023 preferred by present respondents by invoking section 127 of Cr.P.C.

2. Criminal Miscellaneous Application came to be instituted by wife on the premise that, she was wife of revision petitioner and respondent no.2 was born out of their wedlock and cohabitation. She asserted that, she had filed Criminal Miscellaneous Application No.441/2009 way back in 2009 and she and her daughter were awarded maintenance amount of Rs.1200/- and 1000/-, respectively. That, against it, revision was preferred, but same came to be dismissed. Thereafter, she filed Cri. Misc. Application No.08 of 2023

under section 127 of Cr.P.C. contending that since grant of maintenance in 2009, there is considerable rise in the prices of essential commodities and there is huge inflation. Moreover, salary of husband by virtue of 7th pay commission has substantially increased and therefore, enhancement to the tune of Rs.10,000/- per month for each of the applicants was prayed for.

The proceedings were opposed by present revisionist husband and after appreciating the oral and documentary evidence, learned Family Court, Jalna was pleased to partly allow the application enhancing previous maintenance to Rs.6,000/- per month to each of the applicants.

Feeling aggrieved by the above, revision petitioner husband has come up by way of revision.

3. This being revision, while exercising powers under section 397 of 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, 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 not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional

jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even framing of charge is a much advanced stage in the proceedings under the Cr.PC."

Keeping the above settled legal position on record, evidence and impugned orders are put to scrutiny.

4. Heard both sides. Here, case set up before this court is that, learned trial court erred in enhancing the compensation, his thrust is that, respondent daughter has now become major and moreover, from the evidence of wife, it was clear that said daughter was staying with her grandmother that too at Beed, and therefore, in view of above, learned counsel finds fault in the enhancement of compensation in favour of wife and daughter.

5. As stated above, after separation, present respondent wife for herself and on behalf of the their minor daughter, maintenance was claimed by Cri. M. A. No. 441/2009. By invoking section 127 Cr.P.C. enhancement was sought in 2023 i.e. after 12 to 13 years. In initial proceedings, maintenance of Rs.1200/- and Rs.1,000/- was granted and also attempt of present respondents to

get more compensation by way of revision went futile. Apparently, now after almost more than a decade and when husband is shown to be in government service, there is definitely rise in his income. He has not denied he is beneficiary of 7th pay commission. Evidence in trial court shows that, he has admitted that he receives the salary to the tune of Rs.79,979/-.

6. Section 127 Cr.P.C. contemplates enhancement which by virtue of change in circumstance enables a party to invoke such provision for more and better maintenance. There is definitely rise in prices as well as expenses for living. Therefore, the initial quantum of Rs.1200/- or Rs.1000/- is apparently meager. In revision, as stated above, only two points are pressed into service. That, there was no evidence about income of husband and moreover respondent no.2 daughter has attained the majority. However, merely because daughter has grown by age and when she is shown to be still unmarried, definitely, she is entitled to receive financial support. Her mere stay at distinct place would not disentitle from seeking maintenance.

CRIMINAL REVISION APPLICATION NO. 216 OF 2025 :

7. In Criminal Revision Application No. 216 of 2025, there is challenge to order of dismissal of Criminal M.A. No.7 of 2023 dated 10.04.2025.

8. Facts about parties to be married and having daughter is not disputed. Respondent wife resides with daughter is also not in dispute. Order of learned trial court granting enhanced compensation to wife and daughter, is sought to be cancelled by instant application.

9. Learned counsel submitted that, wife left his company without any cause and rather she deserted him. That, daughter has also now become major. That, he has his own son from another marriage and mentally challenged sister to take care of. That apart, he has his own health issues like hypertension and cardiac decease. Further, there are various loans borrowed from credit society, personal loan and is required to pay regularly EMI for the same. That, after necessary deductions, he received only Rs.9,135/- and he has also to run his own house for maintaining son and sister. That, moreover, wife by doing tailor work has earned sufficient means to maintain herself and therefore, he urged for cancellation of order of enhancement.

10. The above application seems to be fall out of enhanced maintenance granted by learned family court, Jalna. While deciding enhanced application, evidence of parties was correctly appreciated by said court. Undisputedly, revision petitioner is in Government service. Initial maintenance granted in 2009 was enhanced in 2023 i.e. almost after a decade and learned Family Court took judicial note

of the rising prices and bear minimum necessities for survival. Taking into account the rise in salary by virtue of 7th pay commission and on his admission about he receiving Rs.79,979/-, maintenance has been fixed to the tune of Rs.6,000/- per month each to the wife and daughter, which is apparently not excess or exorbitant. Therefore, there is no error on the part of learned Family Court in rejecting the application for cancelling enhancement so as to interfere by way of revision.

11. There being no merit in both the revisions, and no perversity being brought to the notice of this court so as to interfere, the same are deserves to be dismissed. Hence, the following order is passed :

ORDER

- (a) Both Criminal Revision Applications stand dismissed.
- (b) In view of dismissal of Revision Applications itself, nothing survives in the pending criminal application, and the same is disposed of.

(ABHAY S. WAGHWASE, J.)