



-1-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 361 OF 2025

1. Sow. Mahejbin w/o Haidar Mushir,
Age : 36 years, Occu. Household.
2. Yahya s/o Haidar Mushir,
Age : 03 years minor
Under guardianship of Petitioner No.1,
Both r/o Khorl Galli, Latur,
Taluka and District Latur. ... Revision Petitioner

Versus

Haidar s/o Fayyaz Mushir,
Age : 37 years, Occ. Software Engineer,
R/o 401, Vishnu Apartment, Malimafiya
Tower Road, Maskati Hospital,
Surat – 395 003 (State Gujarat) ... Respondent

.....
Mr. S. B. Madde, Advocate for the Applicant.
Mr. Mohd. Sharef Latif, Advocate for the Respondent.
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 11.02.2026
Pronounced on : 12.02.2026

ORDER :

1. Revision petitioner assails the order dated 20.06.2025 passed by learned Family Court, Latur dismissing the petition filed by revision petitioner under Section 125 of Cr.P.C. for want prosecution.

2. Learned counsel for the revision petitioner pointed out that, revision petitioner was married to respondent in January 2019. That, admittedly, it was their second marriage. That, initially everything was smooth. They were blessed with son, but subsequently there was ill-treatment to her on petty counts and even demand of money was raised for purchasing four-wheeler and on account of its nonfulfillment, she was driven out of the house with the child and therefore she instituted proceedings before the Family Court seeking maintenance for herself as well as the minor and the same was numbered as Petition E No.135 of 2023. It is pointed out that, on several occasions matter was adjourned for want of notice and the report of re-issuance of notice. That, till November 2024, matter was showing in 'awaiting notice' category and thereafter matter came to be directly posted for steps and ultimately it came to be posted in March 2025 for dismissal order. Finally on 20.06.2025, it is pointed out that, the impugned order has been passed.

3. Learned counsel took this Court through the copy of *roznama* annexed herewith, and in the interest of justice urges to grant one more opportunity to prosecute the matter.

4. learned counsel for the respondent opposed on the ground that, there was failure to prosecute in spite of filing petition. That, after two years of institution, when no necessary steps were taken, petition was rightly dismissed and thereby he supports the impugned order.

5. Heard. Perused the papers. It appears that, Petition E No.135 of 2023 was registered on the file of learned Family Court, Latur on 08.08.2023 and on same day notices were shown to be issued. *Roznama* indicates that thereafter the matter was in the category of 'await notice' up to 16.04.2024, i.e. the day finally when court motion was issued. Next date was shown to be 04.07.2024 but on that day, learned Presiding Officer seems to be on leave and *Roznama* indicates that thereafter matter was posted to 06.09.2024 and 21.11.2024 but again in 'awaiting notice' category and matter was further posted on 15.01.2025 for taking steps as none appeared and for want of report on notice. On 27.03.2025, for want of steps, matter was posted on 20.06.2025 for dismissal order and ultimately on 20.06.2025, impugned order seems to have been passed holding that, petitioner is consistently absent since 24.11.2023 and she is not taking steps to secure presence of the respondent. Holding that she has lost interest in prosecuting the matter, impugned order has been passed on 20.06.2025.

6. For restoration of above petition, learned counsel has submitted that there was communication gap between the revision petitioner and her lawyer. Taking this statement into consideration, which is made on affidavit, and as discussed above, when even court motion did not yield any result, it would be unjust to dismiss the matter for want of steps at the end of petitioner/revision petitioner. Learned counsel for the revision petitioner undertook to diligently take steps on restoration and to prosecute the matter. In the light of above, following order is passed :

ORDER

The Criminal Revision Application is allowed in terms of prayer clause (B) and disposed off accordingly.

[ABHAY S. WAGHWASE, J.]