



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 69 OF 2026

Prashant Purushottam Gaikwad
Age : 52 Years, Occu : Service,
R/o. Ganeshwari, Shirdi,
Tq. Rahata, Dist Ahmednagar

...APPLICANT

Versus

Maya Prashant Gaikwad,
Age : 37 Years, occu : Vadapav Stall,
C/o- Gurusthanagar Shirdi,
Tq. Rahata, Dist. Ahmednagar

...RESPONDENT

Mr. Gandhi Amol Subhash, Advocate for the Applicant.
Mr. Parghane Madhukar M., Advocate for the Respondent.

CORAM : ABHAY J. MANTRI, J.
DATE : APRIL 17, 2026

PER COURT :

1. Heard. **Rule.** Rule is made returnable forthwith with the consent of learned counsel for the parties and heard finally at the admission stage.
2. The Applicant – husband has preferred this Criminal Revision Application challenging the judgment and order dated 20th December 2025, passed by the learned Additional Sessions Judge, Rahata in Criminal Appeal No. 61 of 2024, whereby the appeal was dismissed and the order dated 04th December 2018 passed by the learned Judicial Magistrate First Class, Rahata (for short, '**J.M.F.C.**') below Exhibit 5 in P.W.D.A. Application No. 327 of 2018 was confirmed, whereby interim maintenance of ₹ 5,000/- per month was granted to the Respondent herein till the disposal of the main petition.

3. Having heard the rival contentions of the parties and perused the impugned judgment and order as well as the record.

4. At the outset, it appears that the Respondent, being the wife, has filed an Application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short "*D.V. Act*") before the learned Magistrate, wherein she has moved an application under Section 23 of the D.V. Act for grant of interim maintenance, and after considering the material on record, the learned Magistrate allowed the said Application and directed the Applicant to pay interim maintenance of ₹ 5,000/- per month to the Respondent till disposal of the Application.

5. Aggrieved by the said order, the Applicant has challenged it before the learned Additional Sessions Judge, Rahata, who vide judgment and order dated 20th December 2025, has dismissed the said Appeal and confirmed the order passed by the learned Magistrate. The learned Additional Sessions Judge has also directed the Applicant to deposit the entire arrears amount in the Court within a period of two months. Feeling aggrieved by the said judgment and order, the Applicant has preferred this Revision.

6. Learned counsel for the Applicant vehemently contended that the Applicant is a Clerk in the Nagar Panchayat Shirdi. His two daughters are pursuing higher education in Pune; therefore, he has to bear huge expenses to maintain them. One son is also residing with him and pursuing

his education. Therefore, considering the expenses incurred in maintaining the children, he has insufficient income/funds; accordingly, the grant of interim maintenance of ₹ 5,000/- was excessive and unwarranted. The learned counsel for the Applicant further submits that the learned Trial Court, as well as the learned Appellate Court, failed to consider the above submissions of the Applicant and erred in holding that the Respondent is entitled to interim maintenance of ₹ 5,000/-.

7. The learned counsel further argued that the Applicant has purchased the property in the name of the Respondent, on which she took a loan and did not repay the same; therefore, the Applicant is required to repay the loan amount. He also drew my attention to the account statement for the year 2024-2025. Lastly, he contended that the Respondent runs a Vadapav business and earns ₹2,500 to ₹3,000/- per day; therefore, she is not entitled to claim maintenance. However, neither of the Courts below considered this fact; therefore, he urged that the said order be modified.

8. *Per contra*, learned counsel for the Respondent strenuously opposed the Application and argued that the learned Courts below have rightly considered the material placed before them and have rightly passed the order in accordance with the provisions of the D.V. Act; therefore, he urged that the Application be dismissed.

9. I have carefully gone through the orders passed by both the Courts below. Who have dealt with the submissions made by the learned

counsel for the parties and, after considering the same, have passed the order.

10. It is pertinent to note that the Applicant does not dispute his relationship with the Respondent, nor does he dispute that she is residing separately from him.

11. It is worth noting that it is a settled position of law that it is the obligation of the husband to maintain his wife, and he cannot be permitted to plead inability to maintain her due to financial constraints as long as he is capable of earning. Similarly, the purposive interpretation of Section 12 of the D. V. Act needs to be taken into consideration while dealing with Applications filed by a destitute wife under this provision. The purpose is to achieve social justice, which is the constitutional vision enshrined in the Preamble of the Constitution of India.

12. Furthermore, Section 12 of the D. V. Act is a social welfare provision that must receive a liberal and beneficial interpretation. Likewise, it must be borne in mind that the right to maintenance under Section 12 of the D. V. Act is not a benefit but a legal and moral duty owed by the husband to maintain his wife. Undoubtedly, the Respondent has been residing separately since 2018, and the Applicant has not provided her with any maintenance. This ground itself is sufficient to grant maintenance.

13. It is to be noted that the husband is duty-bound to maintain his wife and provide a maintenance amount to enable her to live as per his

status. In such an event, it is necessary to grant her maintenance. *Besides*, judicial notes can be taken that there is a rise in the prices of essential commodities. Therefore, the interim maintenance amount granted to the respondent appears to be too meagre to satisfy her daily needs.

14. Besides, as per the mandate in *Rajnish v. Neha and Ors.*, the Applicant herein had to file an Affidavit disclosing his assets and liabilities before the Court. However, he failed to produce the same before the Court in support of his defence or contention, thereby leading to an adverse inference being drawn against him.

15. Thus, on perusal of the record and the impugned order, it appears that the applicant has failed to maintain the respondent when he has sufficient means to maintain her. As such, the order passed by the learned Judge appears just and proper. Hence, I do not find substance in the contentions of learned counsel for the Applicant to interfere in the impugned judgment and order.

16. As a result, the Revision Application, being devoid of merit, stands dismissed. No order as to costs. Inform the order to the learned Court below accordingly.

17. ***Rule is discharged. No order as to cost.***

(ABHAY J. MANTRI, J.)