

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 371 OF 2024

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Tasneem Javed Shaikh @
Tasneem Mohiuddin Sayyed

...Applicant

Versus

1) Shaikh Javed Abdul Latif
2) The State of Maharashtra

...Respondents

Mr. Vikas Shivarkar, *for Applicant.*

Mrs. R.V. Newton, *APP for Respondent No. 2-State.*

CORAM : MADHAV J. JAMDAR, J.

Date : 6th February, 2026

PC :

1. Heard Mr. Shivarkar, Learned Counsel appearing for the Applicant and Mrs. Newton, Learned APP for Respondent No.2-State. Though served, none appears for Respondent No. 1.

2. By the present Criminal Revision Application, the challenge is to the legality and validity of the order dated 18th May, 2024 passed by the Learned Judge, Family Court No. 7, Pune in P.E. No. 49 of 2020 ("***Impugned Order***"). The said Petition was filed under Section 125 of the Code of Criminal Procedure, 1973 (***Code***) seeking maintenance of

Rs. 10,000/- per month from the Respondent-Husband. The Learned Judge of the Family Court rejected the said application on the ground that the Respondent, i.e. husband has pronounced divorce as per Islamic rights and by uttering the words for three times, he had divorced the Petitioner-Wife Tasneem. Thus, the Learned Family Court has held that since the Petitioner is not the wife of the Respondent, therefore, Section 125 of the Code is not attracted.

3. In view of the above reasoning given by the Learned Judge of the Family Court, it is necessary to set out relevant part of Section 125 of the Code, which reads as under :

125 Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain--

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself,

a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or

*mother, at such monthly rate * * * as such Magistrate thinks fit and to pay the same to such person as the Magistrate may from time to time direct:*

...

Explanation.--For the purposes of this Chapter,

(a) "minor" means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875) is deemed not to have attained his majority;

(b) "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.

(Emphasis Supplied)

4. Explanation (b) to Section 125 specifically provides that "wife" includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried. There is nothing on record to indicate that the Applicant has remarried and she is able to maintain herself.

5. Even Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which is the corresponding Section to Section 125 of the Code, in the Explanation provides that for the purposes of Chapter 10 the "wife"

includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried. Thus, it is very clear that the Impugned Order dated 18th May, 2024 has been passed without noticing the Explanation to Section 125 of the Code, and therefore, the same is illegal.

6. Accordingly, the Impugned Order dated 18th May, 2024 is quashed and set aside.

7. In the said P.E. No. 49 of 2020, the Petitioner has sought Rs.25,000/- per month towards monthly maintenance and Rs. 10,000/- per month as Rental Charges towards Shelter. In the Petition being P.E. No. 49 of 2020, it is stated that the Respondent-Husband is a Central Government employee and working in Defence Department and earning approximately Rs.1,00,000/- per month as salary and also is entitled to get various facilities.

8. Thus, in the facts and circumstances, the Respondent No. 1 is directed to pay Rs.25,000/- per month to the Applicant towards maintenance including Rental Charges towards shelter from the date of filing Application being P.E. No. 49 of 2020. The Respondent No. 1 shall

pay the said amount per month, on or before 15th of each month. First such payment shall be made with effect from 1st February, 2026 and such payment is to be made on or before 15th February, 2026. The arrears to be paid on or before 30th April, 2026.

9. The Criminal Revision Application is *disposed of* in the above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]