



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL REVISION APPLICATION NO. 26 OF 2024

Mohammed Abuzar s/o Mohammed
Argul Kamar,
Aged 20 years, Occ. Student,
R/o C/o Mrs. Shagufta Yasmin w/o
Mohd Arzul Kamar, Near Masjid,
Naya Nakasha, Lashkaribagh,
Nagpur.

APPLICANT

Versus

Mohammed Arzul Kamar s/o Shaikh,
Israil,
Aged 56 years, Occ. Business,
R/o Plot No.49, Near Budha Vihar,
Vaishali Nagar, Nagpur.

NON-APPLICANT

Mr. A.S. Pande, Advocate a/w Mr. A.M. Jaltare, Advocate for the
Applicant.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 06th FEBRUARY, 2026.

ORAL JUDGMENT :-

1. Heard learned Counsel for the Applicant.
2. Despite the service of notice none appears for the
Non-applicant.

3. The present Revision is preferred by the Applicant under Section 397 of the Code of Criminal Procedure challenging the order passed by the Family Court, Nagpur rejecting the Application of the present Applicant for grant of maintenance from the Non-applicant who is the father dated 24.08.2023 below Exhs. 1 and 11.

4. Brief facts which are necessary for the disposal of the Revision are as under:

4(i). The Non-applicant is the father of the Applicant as his marriage with the mother of the Applicant was solemnized on 02.06.2002 at Nagpur as per the Mohammedan rites, custom and tradition. Since marriage the behavior of the Non-applicant with the mother of the Applicant was not good more particularly since the year 2004 to 2008 and there used to be frequent quarrel between them which constrained the mother of the present Applicant to leave the matrimonial house and take the shelter at her parents house.

4(ii). The Applicant was born to the Non-applicant from the said wedlock. The mother of the Applicant is Teacher and since beginning she was incurring the expenses towards the

maintenance of the present Applicant as well as his education and his day to day expenses. She has also taken all care of the Applicant but as of now the Applicant is taking the higher education, she is unable to incur the expenses, and therefore, the present Applicant is deprived from the education. Therefore, he has preferred an application for grant of maintenance from the present Non-applicant.

4(iii). By preferring this Application, the Applicant/Petitioner has prayed before the Family Court to direct the Respondent/Non-applicant to pay maintenance Rs. 20,000/- per month to the Petitioner for his basic necessity, needs, livelihood and educational purpose.

4(iv). On taking cognizance of the said Petition, the notice was issued to the Respondent and the Respondent has filed an application below Exh. 11 contending that now the Petitioner is 19 years old and the Petition is not maintainable. The learned Family Court after hearing both the sides came to the conclusion that now the Petitioner is not the minor child. Therefore, he is not covered by Section 125 of Cr.P.C., and therefore, the Petition is not maintainable and rejected the application.

4(v). Being aggrieved and dissatisfied with the same the present Applicant has preferred this Revision on the ground that, the Family Court has lost sight of the fact that though the Petitioner has attained the age of majority but he is taking education and still dependent on his parents. The Family Court has also not considered that now in view of the amended provisions of Bharatiya Nagarik Suraksha Sanhita in Section 144 the word 'minor' is removed and the amendment is that the children who are dependent upon the parents are also covered by that.

5. Heard learned Counsel for the Applicant, who submitted that, though the Applicant has attained the age of majority but still he is taking education and he is jobless and unless and until he completes his education it is difficult for him to maintain himself and his mother who is serving as a Teacher. She is also unable to maintain the present Applicant by incurring the expenses towards his education as well as his day to day needs. In view of that, the present Revision Application deserves to be allowed.

6. As already observed that despite the service of notice none appears for the Non-applicant.

7. On perusal of the Petition filed by the Petitioner before the Family Court Nagpur, reply filed by the Respondent before the Family Court, Nagpur and the impugned order passed, admittedly the Petitioner is of 19 years of age and has attained the age of majority. It is also admitted position that, he is taking the education and intending to take admission for pharmaceutical course. Thus, it is an undisputed fact that he is not an earning member as he is jobless and he is taking education.

8. The Hon'ble Apex Court in the case of ***Zahir Abdullah & Anr. Vs. Omar Abdullah, 2023 SCC OnLine Del 5341***, has considered in para 21 regarding the principle underlined under Section 125 of Cr.PC., which reads as under:

“21. The principle underlying Section 125 Cr.PC. is that it is in furtherance of social justice and has been enacted to ensure that women and children remain protected from a life of destitution and potential vagrancy. The object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim for support. This was observed concisely by the Supreme Court in Chaturbhu vs. Sita bai, (2008) 2 SCC 316, where it stated as follows:

6. The object of the maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support. The phrase "unable to maintain herself" in the instant case would mean that means available to the deserted wife while she was living with her husband and would not take within itself the efforts made by the wife after desertion to survive somehow. Section 125 of CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in Captain Ramesh Chander Kaushal v. Veena Kaushal [(1978) 4 SCC 70 falls within constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat, (2005) 3 SCC 636."

9. Thus, the very purpose of Section 125 Cr.P.C. is also to protect the children from want of roof, food, clothing and necessities of life. Education is an important aspect in children's life. Amounts need to be spent for it. Those expenses are educational expenses. Every father is under obligation to provide a good education to his children. No father is expected to produce a criminal or a disorderly person. Thus, he has to bear the educational expenses of his children. Children have to maintain their education by meeting the educational expenses. Even a man on the pavement will be dreaming of his children

becoming a qualified person in life. Therefore, the obligation of a father to maintain, to meet the educational expenses of his children cannot be excluded for the component of maintenance. Section 125 Cr.P.C. is not only for food for life, it should also be for food for thought. Otherwise, so far as the children are concerned, it would be violence to the very object of Section 125 Cr.P.C.

10. The context of Section 125 Cr.P.C. is to ensure that the wife and the children of the husband are not left in a state of destitution after they parted from each other. The husband must also carry the financial burden of making certain that his children are capable of getting food shelter as well as the education and they should have sufficient means to maintain themselves. The mother cannot be burdened with the entire expenditure on the education of her son just because he has completed 18 years of age, and the father cannot be absolved of all responsibilities to meet the education expenses of his son because the son may have attained the age of majority, but may not be financially independent and could be incapable of sustaining himself. A father is bound to compensate the wife

who, after spending on children, may hardly be left with anything to maintain herself.

11. This aspect is recently considered by the Madras High Court in the case of *R. Alagarsamy Vs. M. Logambal & Ors., in Crl. R.C. (MD) No. 140/2025 & Crl. M.P. (MD) No. 1486/2025*, wherein the Hon'ble Madras High Court by considering various decisions including *Zahir Abdullah & Anr.* (supra) and also compared the two provisions i.e. 125 of Cr.P.C. and Section 144 of BNSS and observed that, Section 144 of the BNSS, which replaces Section 125 of the CrPC, introduces a major shift in maintenance law. By omitting the word 'minor', the provision now extends the right to maintenance to adult children who are unable to support themselves. This expansion is significant, as previously only minor children could claim maintenance. Now, a child who has attained majority can also claim maintenance from their father if they are unable to maintain themselves. The Legislature's omission of the word 'minor' in Section 144(1)(b) of the BNSS allows legitimate or illegitimate children, regardless of age, to approach the courts for maintenance if they are unable to support themselves,

subject to the father's refusal or neglect to maintain despite having sufficient means.

12. In light of this, the impugned order rejecting the applications of the present Applicant without giving the opportunity to adduce the evidence, is illegal and in view of that, the present Revision Application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- i. Criminal Revision Application is **allowed**.
- ii. The Petition No. E.-634/2022 is remanded back to the Principal Judge, Family Court, Nagpur for further consideration and to dispose it on merits.
- iii. The parties to appear before the Principal Judge, Family Court, Nagpur on 16.02.2026.

13. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)