



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [APPR] NO. 200 OF 2024
IN
CRIMINAL REVISION APPLICATION [STAMP] NO. 7991 OF 2024

Manohar Giralal Rathod

-- VERSUS --

Sau. Sunita Manohar Rathod and Another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Abhishek Zade, Advocate for the Applicant.

Ms. Mrunalini Suple, Advocate (appointed) for the Non-applicants.

CORAM : M.M. NERLIKAR, J.

DATE : JUNE 11, 2026.

CRIMINAL APPLICATION [APPR] NO. 200/2024:-

Heard the learned counsel for the applicant.

2. The matter is pending since 2024 for adjudication on the application for condonation of delay. It further appears from the office report that, the non-applicants were duly served, however, none appeared for the non-applicants, and therefore, I am of the opinion that, the purpose would be served if the Advocate is appointed to represent her.

3. Accordingly, Ms. Mrunalini Suple, Advocate is appointed to represent the non-applicants.

4. I have heard both the sides on the delay application. The application was filed for condoning the delay of 456 days caused in filing the revision application.

5. The learned counsel for the applicant submits that due to poor financial condition, he was not able to approach this Court within time. He further submits that, applicant was not aware about the legal proceedings, and therefore, there was delay in filing the application. In the interest of justice, the delay may be condoned, since the applicant is having good case on merits.

6. On the other hand, the learned counsel appearing for the non-applicants vehemently opposes the application and submits that there is no cogent explanation and sufficient cause enumerated in the delay condonation application. She further submits that, merely poor financial condition is no ground to condone the delay and further it cannot be said that the applicant is not knowing about the legal proceedings, and therefore, she submits that delay may not be condoned.

7. I have considered the rival submissions. It is true that poor financial condition and being unaware of the legal proceedings are no grounds to condone the delay, however, considering the dispute between the parties, in the interest of justice, I am inclined to condone the delay, since the proceedings are arising out of matrimonial dispute.

8. Accordingly, the delay of 456 days caused in filing the revision application is condoned. The office is directed to register the revision application.

CRIMINAL REVISION APPLICATION 131/2026:-

I have heard the revision application.

2. The applicant is challenging the judgment and order dated 03/03/2023 passed by the learned Judge, Family Court, Yavatmal, wherein, the proceedings filed under Section 125 of the Code of Criminal Procedure, 1973, by the wife and his son aged about 8 years has been allowed by granting maintenance of Rs.2,500/- per month each, total amounting to Rs.5,000/- from the date of filing of the petition, i.e., from 26/09/2018.

3. The learned counsel for the applicant submits that the trial Court has failed to take into consideration the income of the applicant wherein in the written statement and in the evidence, he has

specifically stated that, he is earning Rs.2,000/- per month by doing private job. The Court ought not to have granted Rs.5,000/- maintenance amount in total to the wife and child. He further submits that, the wife of the applicant has voluntarily left the matrimonial house which fact has been duly proved by the applicant by leading evidence and under such circumstances maintenance cannot be granted under Section 125 of the Cr.P.C. It is the wife who had deserted the applicant and she cohabited with him only for three and half months. In view of the same, the applicant was required to file petition for restitution of conjugal rights. He further submits that, the wife has initiated criminal proceedings under Section 498-A and 506 read with Section 34 of the Indian Penal Code, 1860, however, in those proceedings, it was held that, no cruelty was meted out by the applicant and his relatives and they were acquitted of the said offences, and therefore, considering all these facts, the wife does not deserve to be granted any maintenance.

4. On the other hand, the learned appointed counsel appearing for the non-applicants submitted that, it is not in dispute that the non-applicant No.1 is legally wedded wife of the applicant. The applicant has not made any provision in respect of the maintenance of the wife and son.

Though the interim maintenance was granted, however, not a single penny has been paid by the applicant, and under such circumstances, the maintenance granted by the trial Court is justified. She further submits that, the evidence shows that it is the applicant who has dragged her out of house and she was constrained to live at her parental home.

5. I have heard both the sides. I have gone through the evidence as well as the impugned judgment and order. The marriage was solemnized on 18/05/2010. As was alleged that after one month of marriage, the husband and his family members started harassing her mentally and physically and demanded Rs.50,000/-. Due to continuous harassment at the hands of the husband and his relatives, the father of the non-applicant No.1 brought her to his house. It further appears that, several attempts were made to resume cohabitation from the side of the wife, however, no fruitful purpose was served. Therefore, the wife was constrained to file the proceedings under Section 125 Cr.P.C. It further appears from the record that, after leading evidence by both the sides, the trial Court came to the conclusion that the wife has proved the case and it was held that the husband has neglected to maintain his wife and son, and therefore, the trial Court granted Rs.2,500/- per month each, total

amount of Rs.5,000/- as maintenance for wife and child from the date of filing of the petition.

6. After going through the reasoning based on the evidence, I do not find any perversity in the judgment and order dated 03/03/2023. Rs.2,500/- is not exorbitant, even, if a person is unemployed, he is duty bound to maintain his wife and son, he cannot take a defense that he is unemployed or he is not earning anything. The evidence which was led by the husband goes to show that he is earning Rs.2,000/- by doing private job, which I believe is absolutely frivolous statement. Therefore, the version of the husband cannot be believed. In this view of the matter, the reasons assigned by the trial Court does not require any interference and hence the revision application is **rejected**. The fees of the appointed counsel be quantified and paid as per rules.

[M.M. NERLIKAR, J]