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2026:BHC-NAG:13753

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

CRIMINAL REVISION NO. 53 OF 2022

[redacted] ...Applicant

// VERSUS //

1. [redacted] Teacher
2. [redacted]
3. [redacted] ... Non-applicants

Shri Siddharth M. Lodha, Advocate for the applicant.
Shri S.A.Sahu, Advocate for the non-applicant.

CORAM : MEHROZ K. PATHAN, J.

Reserved on : 7th October, 2026.
Pronounced on : 13th October, 2026.

JUDGMENT

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Rule. Rule made returnable forthwith. Heard finally by consent of the respective parties.

2. The revision is filed by the applicant, thereby challenging the common judgment passed by the learned Family Court, Nagpur in Petition No. E-130 of 2014 granting maintenance to the children Rs.7000/- each to the non-applicant nos. 2 and 3 from the date of judgment.

3. Shri Lodha, learned counsel for the applicant submits that the non-applicant wife is a teacher in the Nagar Parishad School. However, still she had failed to bear expenses of the non-applicant nos. 2 and 3 children. The applicant is working as a teacher, however, he has to maintain old aged parents. The non-applicant nos. 2 and 3 have become major. The impugned judgment ignoring such vital aspect of the matter, that the non-applicant nos. 2 and 3 have become major has gone ahead to grant maintenance of Rs.7000/- each t[redacted] who was aged 23 years at the time filing of the revision application and [redacted]ho attained majority during the pendency of the revision application. Shri Lodha, learned counsel for the applicant therefore submits that both the non-applicant nos. 2 and 3 are not

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entitled for the maintenance and hence, the impugned judgment is liable to be quashed and set aside.

4. Shri Lodha, learned counsel for the applicant has further relied upon the judgment of the Hon'ble Supreme Court in the case of *Abhilasha Vs. Parkash and others* reported in *2021(13) SCC 99* to buttress his submission that a major unmarried Hindu daughter can claim maintenance from her father till she is married under Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956 (hereinafter referred as "HAMA, 1956") provided that she pleads and proves that she is unable to maintain herself for enforcement of which right her application/suit has to be under Section 20 of the HAMA, 1956. The non-applicant no.2/daughter being major at the time of passing of the impugned order dated 07.12.2019 granting maintenance to the unmarried daughter is therefore liable to be quashed and set aside.

5. Shri Lodha, learned counsel, further submits that the object and purpose of Section 125 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "the Cr.P.C."), is to provide a speedy and summary remedy for securing maintenance to a wife, children, or parents, as the case may be. He further submits that the remedy available under

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Section 125 of the Cr.P.C. is distinct from the right to claim maintenance under the HAMA, therefore, according to the learned counsel, the non-applicant/daughter had an alternative remedy to claim maintenance from her father under Section 20(3) of the HAMA. Hence, the impugned judgment granting maintenance under Section 125 of Cr.P.C. against the daughter was unjust, illegal and liable to be quashed and set aside.

6. Shri Lodha, learned counsel further submits that the non-applicant no.3 is concerned, he is also become major during pendency of the revision and non-applicant no.3 is also not entitled for maintenance. As per the provisions of under Section 125 of the Cr.P.C. only the minor child are entitled for seeking maintenance under Section 125 of the Cr.P.C. The impugned order dated 17.12.2019 is therefore illegal, unjust and arbitrary passed without application of mind and hence liable to be quashed and set aside.

7. As against this Shri Sahu, learned counsel appearing on behalf of the non-applicant/wife and non-applicant nos. 2 and 3, strongly opposed the present revision application on the ground that the application for grant of maintenance is maintainable under Section

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125(3) of Cr.P.C. The reliance placed upon the judgment of the *Abhilasha Vs. Parkash* (supra), is misconceived and liable to be rejected.

8. Shri Sahu, learned counsel for the non-applicant/wife and children further reliance the judgment of this Court in the case of *Murlidhar Krushnarao Virulkar Vs. Ku. Neha* reported in *2024 SCC Online Bom 3706*, wherein this Court has observed that it would be rather harsh, if the non-applicant/daughter is again asked to go for filing maintenance application under Section 20(3) of HAMA, 1956 afresh and that too after about 9 years.

9. Shri Sahu, learned counsel further submits that the proceedings for grant of maintenance is pending since the year 2016 which came to be finally decided in the year 2019, cannot be now quashed and set aside only on the ground that the non-applicant/daughter is unmarried and is having alternative remedy of filing the application under Section 20(3) of the HAMA 1956. The impugned judgment is just and proper and liable to be maintained.

10. Shri Sahu, learned counsel further submits that so far as the claim of the non-applicant no.3 minor son is concerned, till the impugned judgment was passed by the learned Family Court dated

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07.12.2019, the non-applicant no.3 has not attained the majority. The impugned order thus cannot be faulted for granting maintenance to the minor child, the grounds raised by the applicant that the non-applicant no.3 son has attained majority during the pendency of the application and is not entitled as per the provision of Section 125(3) of the Cr.P.C., is not maintainable.

11. Shri Sahu, learned counsel further submits that provisions under Section 125(3) provides for a constant condition of unable to maintain itself/himself/herself in all the clauses of Section 125 of Cr.P.C. The non-applicant no.3 son though have attained majority, is unable to maintain itself and as such cannot be deprived of the maintenance rightly awarded by the learned Family Court, vide impugned judgment. The impugned judgment is just and proper and liable to be maintained.

12. I have gone through the impugned judgment dated 07.12.2019 passed by the learned Family Court. The learned Family Court after taking into consideration the fact that the non-applicant/wife is earning Rs.40,000/- per month being a teacher, had specifically denied the maintenance to the non-applicant/wife. However, taking into consideration the fact that the applicant/husband is also earning

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Rs.71,000/- per month, has granted the maintenance of Rs.7000/- each to the non-applicant nos. 2 son and 3 daughter in the year 2019. It is an admitted fact that the non-applicant no.3 has not attained majority at the time of passing of the impugned judgment dated 07.12.2019. Thus, the impugned judgment dated 07.12.2019 passed by the learned Family Court, Nagpur cannot be faulted on the ground that the non-applicant no.3 has now attained majority and not maintainable under Section 125 of Cr.P.C.

13. In so far as the non-applicant no.2-daughter is concerned, the applicant has raised a ground that the non-applicant no.2 is having alternate remedy to file application for grant of maintenance under Section 20(3) of HAMA 1956. However, mere availability of such an alternate remedy cannot be a bar to claim a maintenance under Section 125 of Cr.P.C., particularly, when the applicant has failed to show that the non-applicant no.2/daughter is able to maintain herself.

14. The Hon'ble Supreme Court in the case of *Jagdish Jugtawat Vs. Manju Lata and others* reported in *2002(5) SCC 422* has upheld the ground of maintenance under Section 125 of Cr.P.C. to a daughter even after attaining the majority, by observing as under:

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"2. The petitioner is the father of Kumari Rakhi, Respondent 3 herein, who is a minor unmarried girl. Considering the application filed under Section 125 of the Criminal Procedure Code by Respondent 1, wife of the petitioner and mother of Respondent 3, claiming maintenance for herself and her two children, the Family Court by order dated 22-7-2000 granted maintenance @ Rs 500 per month to each of the applicants. The petitioner herein filed a revision petition before the High Court assailing the order of the Family Court on the ground, inter alia, that Respondent 3 was entitled to maintenance only till she attains majority and not thereafter. Considering the point the learned Single Judge of the High Court accepted the legal position that under Section 125 CrPC, a minor daughter is entitled to maintenance from her parents only till she attains majority, but declined to interfere with the order passed by the Family Court taking the cue from Section 20(3) of the Hindu Adoptions and Maintenance Act under which the right of maintenance is given to a minor daughter till her marriage. The learned Single Judge was persuaded to maintain the order of the Family Court with a view to avoid multiplicity of proceedings. The relevant portion of the judgment of the High Court is quoted here:

> *"Thus, in view of the above, though it cannot be said that the order impugned runs counter to the law laid down by the Hon'ble Supreme Court, the provisions of Section 125 CrPC are applicable irrespective of the personal law and it does not make any distinction whether the daughter claiming maintenance is a Hindu or a Muslim. However, taking an overall view of the matter, I, with all respect to the Hon'ble Court, am of the candid view that the provisions require literal interpretation and a daughter would cease to have the benefit of the provisions under Section 125 CrPC on attaining majority, though she would be entitled to claim the benefits further under the statute/personal law. But the Court is not inclined to interfere, as the order does not result in miscarriage of justice, rather interfering with the order would create great inconvenience to Respondent 3 as she would be forced to file another petition under sub-section (3) of Section 20 of the Act of 1956 for further maintenance etc. Thus, in order to avoid multiplicity of litigations, the order impugned does not warrant interference."*

3. In view of the finding recorded and the observations made by the learned Single Judge of the High Court, the only question that

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arises for consideration is whether the order calls for interference. A similar question came up for consideration by this Court in the case of Noor Saba Khatoon v. Mohd. Quasim (1997) 6 SCC 233, AIR 1997 SC 3280 relating to the claim of a Muslim divorced woman for maintenance from her husband for herself and her minor children. This Court while accepting the position that Section 125 CrPC does not fix liability of parents to maintain children beyond attainment of majority, read the said provision and Section 3(1)(b) of the Muslim Women (Protection of Rights on Divorce) Act together and held that under the latter statutory provision liability of providing maintenance extends beyond attainment of majority of a dependent girl.

4. Applying the principle to the facts and circumstances of the case in hand, it is manifest that the right of a minor girl for maintenance from parents after attaining majority till her marriage is recognized in Section 20(3) of the Hindu Adoptions and Maintenance Act. Therefore, no exception can be taken to the judgment/order passed by the learned Single Judge for maintaining the order passed by the Family Court which is based on a combined reading of Section 125 Cr.P.C and Section 20(3) of the Hindu Adoptions and Maintenance Act. For the reasons aforestated we are of the view that on facts and in the circumstances of the case no interference with the impugned judgment/order of the High Court is called for."

15. Thus, taking into consideration the aforesaid observations of the Hon'ble Supreme Court in the case of *Jagdish Jugtawat Vs. Manju Lata and others* (supra) which is pronounced considering the provisions of Section 20(3) of the HAMA, 1956 there appears to be no error committed by the learned Family Court in granting maintenance even to a unmarried major daughter.

16. In so far as the grievance of the applicant that the non-applicant no.3 has attained majority during the pendency of the present

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application can be very well raised in an application under Section 127 of Cr.P.C. to be filed before the appropriate forum. Moreover the Single Judge of Delhi High Court was pleased in the case of *Urvashi Aggarwal and others Vs. Inderpaul Aggarwal in Criminal Revision P. 549 of 2018 and Criminal M.A. 11791 of 2018 (Stay)* is observed as under :

> *"12. …... The petitioner No.1 has to take care of the entire expenditure of the Petitioner No.2 who has now attained majority but is not earning because he is still studying. The learned Family Court, therefore, failed to appreciate the fact that since no contribution is being made by the respondent herein towards the petitioner No.2, the salary earned by the petitioner No.1 would not be sufficient for the petitioner No.1 to maintain herself. This Court cannot shut its eyes to the fact that at the age of 18 the education of petitioner No.2 is not yet over and the petitioner No.2 cannot sustain himself. The petitioner No.2 would have barely passed his 12th Standard on completing 18 years of age and therefore the petitioner No.1 has to look after the petitioner No.2 and bear his entire expenses. It cannot be said that the obligation of a father would come to an end and when his son reaches 18 years of age and the entire burden of his education and other expenses would fall only on the mother……"*

18. The grant of maintenance to the non-applicant nos. 2 and 3 of Rs.7000/- each passed by the learned Family Court, Nagpur vide impugned judgment dated 07.12.2019 does not appear to be erroneous. The revision being devoid of merit, is hereby dismissed.

19. Accordingly, criminal revision is disposed of.

[MEHROZ K. PATHAN, J.]

Sknair