



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (FOR
MAINTENANCE) NO. 181 of 2025**

With

**CRIMINAL MISC.APPLICATION (FOR STAY) NO. 1 of 2025
In R/CRIMINAL REVISION APPLICATION NO. 181 of 2025**

**FOR APPROVAL AND SIGNATURE:
HONOURABLE MR.JUSTICE P. M. RAVAL**

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Approved for Reporting	Yes	No
		✓

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MAYURBHAI BADVANTBHAI DAVE
Versus
STATE OF GUJARAT & ORS.

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Appearance:

JAIVIK UDAY BHATT with MR ADNIRRUDHSINH
KUSHWAHA (7319) for the Applicant(s) No. 1
MR AB GATESHANIYA(3766) for the Respondent(s) No. 2,3
MR ROHAN SHAH, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR.JUSTICE P. M. RAVAL

Date : 03/03/2026

ORAL JUDGMENT

1. By this application, the applicant - original respondent -



husband seeks to challenge the judgment and order dated 25.09.2024 passed in Criminal Misc. Application No. 205 of 2022 by the learned Principal Judge, Family Court, Surendranagar, whereby, the learned Judge partly allowed the said application and enhanced the maintenance amount to the applicants therein – respondent Nos. 2 and 3 herein from Rs.2,500/- to Rs.4,500/- per month to the respondent No. 2 and from Rs.4,000/- to Rs.7,000/- per month to the respondent No. 3 herein and thereby, enhancing the total maintenance amount from Rs.6,500/- to Rs.14,000/- per month to the respondent Nos. 2 and 3 herein.

2. *Rule.* Learned advocates for the respective respondents waive service.

3. Considering the controversy involved in the matter, with the consent of the learned advocates for the respective parties, the matter is heard finally today.

4. Heard, the learned advocates for the respective parties.

4.1 The learned advocate for the applicant – husband would submit that the applicant – husband has responsibility of his ailing mother also, who is aged about 76 years. It is further submitted that even as per the Income Tax Returns, the income of the applicant – husband is assessed at Rs.25,900/- per month, and on account of such an enhancement of maintenance, more than 50%



of the monthly earnings goes towards paying maintenance only. It is submitted that the learned Judge has enhanced the amount merely on the count that five years have elapsed after the maintenance order was passed and considering the rate of inflation, he enhanced the maintenance amount, as aforesaid, which is quite exorbitant and accordingly, it is prayed that this application may be allowed by setting aside the impugned order herein.

5. *Ex adverso*, the learned advocate for the respondent Nos. 2 and 3 - original applicants while supporting the impugned judgment and order of the learned Family Court, submitted that when the earlier order of maintenance was passed, the respondent No. 2 - wife was earning, however, it is not the case and now, she is jobless and is not earning. Moreover, it is submitted that as against that, the income of the husband *i.e.* the applicant herein has increased to Rs.25,900/- per month, by the passage of time, which earlier was Rs.20,000/- per month. Accordingly, in the submission of the learned advocate for the respondent Nos. 2 and 3, as there is no palpable error in the impugned order granting maintenance, this Court, in the revision jurisdiction, may not interfere with the order impugned herein being just and proper and accordingly, it is requested to reject this application.

6. Heard, the learned advocates for the respective parties and perused the material available on record.



6.1 At the outset, it is required to be noted that the scope of revision is very limited and cannot be exercised in routine manner. The Apex Court in the case of *Amit Kapoor v. Ramesh Chander and Anr., reported in (2012) 9 SCC 460*, has held that it is only with a view to correct the manifest error, such jurisdiction should be invoked. Revisional Jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely.

6.2 On the touchstone of the aforesaid principles, if the case on hand is tested, earlier, by the judgment and order dated 05.07.2019 passed in Criminal Misc. Application No. 418 of 2018 filed under Section 125 of the Criminal Procedure Code, 1973 (the Code) by the learned Principal Judge, Family Court, Surendranagar, the learned Judge granted maintenance to the tune of Rs.2,500/- per month to respondent No. 2 and Rs.4,000/- per month to the respondent No. 3 herein, totalling to Rs.6,500/- per month. Thereafter, the respondent Nos. 2 and 3 herein preferred an application under Section 127 of the Code for enhancement of maintenance, which came to be partly allowed *vide* the order impugned in this revision application enhancing maintenance to the respondent Nos. 2 and 3 herein from Rs.6,500/- to Rs.14,000/- and thereby, an enhancement of Rs.7,500/- per month in the earlier maintenance order was made. However, if the impugned



order is perused, while recording the reasons, the learned Judge has observed that the income of the husband *i.e.* the present applicant is approximately Rs.25,900/- per month, which was earlier believed to be Rs.20,000/- per month while passing the order dated 05.07.2019. Further, earlier, while passing the maintenance order, income of the wife was considered, however, as observed in the impugned order, the respondent No. 1 is not earning now and though an assertion is made by the present applicant that the respondent No. 1 is earning Rs.6,000/- per month but he failed to prove the income of the respondent No. 1 and she has stated on affidavit that she is not earning now and she is jobless.

6.3 Be that as it may, the fact remains that the wife has studied upto M.Com. and the same can be one of the aspects while fixing the amount of maintenance though she is not earning. In *Smt. Jasbir Kaur Sehgal v. District Judge, Dehradun and Others*, reported in AIR 1997 SC 3397, the Apex Court held that, “the Court has to consider the status of the parties, their respective needs, the capacity of the husband to pay having regard to his reasonable expenses for his own maintenance and of those he is obliged under the law and statutory but involuntary payments or deductions. The amount of maintenance fixed for the wife should be such as she can live in reasonable comfort considering her status and the mode of life she was used to when she lived with her husband and also that she does not feel handicapped in the prosecution of her case. At the same time, the amount



so fixed cannot be excessive or extortionate". The social objective behind the provision for grant of maintenance, if considered on the admitted facts as discussed in this case, it would go to disclose the wife's need and requirement to be balanced not only with the income and liability of the husband but also has to be considered on the backdrop of the education and prospect of the wife to earn, therefore, maintenance should allow the wife to maintain a reasonable standard of living but should not be excessive or encourage idleness. The amount of permanent alimony awarded to the wife must be befitting the status of the parties and the capacity of spouse to pay maintenance. Maintenance is always dependent on the factual situation of the case and the Court would be justified in moulding the claim for maintenance passed on various factors. In the case on hand, the wife is M. Com. Further, though income of the husband is increased from Rs.20,000/- per month to Rs.25,900/- (r/o. Rs.26,000/-) per month, however, if the enhanced amount of maintenance is seen, the same is more than double from what was earlier granted to the respondent Nos. 2 and 3 herein. It is true that considering the rate of inflation, the amount ought to have been enhanced, but merely considering the fact that now wife is not earning and that the inflation rate has gone up and that, five years have elapsed after the earlier maintenance order, the trial Court has doubled the amount of maintenance, however, without giving any palpable reasons therefor and/or without giving any justification for coming to such a conclusion and doubling the amount of maintenance.



6.4 Considering the responsibility of the applicant husband, more particularly, he has also to maintain his ailing mother as well as considering his income as believed by the Family Court as also considering the fact that the respondent No. 2 has responsibility of respondent No. 3 also, who is now aged about 13-14 years and changing needs with the time and when, it has not come on record, more particularly, at the instance of the respondent Nos. 2 and 3 that the applicant herein earning handsome and/or he is enjoying a luxury life and spending extravagant on himself, and in the income so believed of the husband, it would also be difficult to survive by the husband by paying such an enhanced more than double maintenance amount, and last but not least, considering the scope of revisional jurisdiction, to strike a balance in view of the admitted facts of the case, the Court considers it apposite to reduce the *quantum* of maintenance awarded by the Family Court.

7. For the forgoing reasons, this application succeeds and is accordingly, allowed in part. The impugned order, as referred to herein above, is hereby modified and the enhanced amount of total maintenance granted to the respondent No. 2 herein is reduced to Rs.5,500/- from Rs.6,500/- per month and to respondent No. 3 herein, from Rs.7,500/- to Rs.6,500/- per month, thereby, granting total amount of maintenance to the respondent Nos. 2 and 3 herein of Rs.12,000/- per month. The reduced amount of maintenance shall be paid from the date of application.



8. Rule is made absolute to the aforesaid extent.

8.1 In view of main revision application is disposed of aforesaid, Criminal Misc. Application No. 1 of 2025 for Stay, does not survive and the same stands disposed of.

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[P. M. Raval, J.]

Shoneek Kapoor.com