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

CRIMINAL REVISION APPLICATION NO.147 OF 2023

Mast. Mihir s/o Pankaj Bagade,
Aged about 10 Years,
Occupation : Student,
Through his natural guardian mother
Dr. Nisha w/o Pankaj Bagade,
Aged about 38 Years,
Occupation : Service,
Residing at C/o
Shri Vishnu Meshram,
Ward No.19/22, Sahadev Nagar,
Rajnandgaon, State -Chattisgarh(CG)

..... **APPLICANT**

// VERSUS //

1. Dr. Pankaj s/o Madhukar Bagade,
Aged about 42 Years,
Occupation : Service,
Residing at Plot No.90,
Shubham Colony,
Near Power Grid Office,
Nari Layout, Nagpur,
Maharashtra.

.... **RESPONDENT**

Mr. Anant Neware, Advocate for applicant.
Mr. Amol Jaltare, Advocate for the respondent.

CORAM : URMILA JOSHI-PHALKE, J.
RESERVED ON : 16.03.2026
PRONOUNCED ON : 08.04.2026

JUDGMENT :

1. Heard.
2. **Admit.**
3. Heard finally with the consent of the learned Counsel for the applicant and learned counsel for the respondent.

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4. Present revision application challenges the order of grant of maintenance passed in Petition No.E-184/2016 by the learned Family Court No.1, Nagpur dated 25.04.2023 and prayed for modification of quantum of maintenance from Rs.15,000/- per month to Rs.50,000/- per month.

5. Present applicant, who is a minor child claims maintenance through his mother Nisha w/o Pankaj Bagade from father Pankaj s/o Madhukar Bagade. The marriage of the respondent and the mother of the applicant performed on 27.05.2010. From the said wedlock, the birth of the present applicant took place. At the relevant time, the mother of the present applicant was pursuing her MBBS. The respondent herein is also a medical professional and serving as Medical Officer. As per the allegation, after solemnization of the marriage, he requested the mother of the applicant to accompany him to Pune, but she raised quarrel. She was also not doing any household work. On the pretext of preparation of post graduation entrance examination, she was also suspecting his character and therefore, he filed a Petition for Restitution of Conjugal Rights. The Court has granted the alimony of Rs.10,000/- to child i.e. the present applicant. Thereafter, the applicant has filed an application for maintenance bearing Petition No.E-184/2016 under Section 125 of the Code of Criminal Procedure. The respondent has also preferred Petition

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for dissolution for marriage. As per the contention of the mother of the applicant that after marriage, when she resumed the cohabitation at the house of the present respondent, the present respondent tortured her and also threatened her, when she was at Bilaspur for the internship. He never visited her at Bilaspur. On the contrary, she always travels to Pune to meet him. The present respondent not only threatened her, but also abused her. She was under the expectation that some day everything would be normal, but there was no change in the behaviour of the present respondent. In November 2011, when she was pregnant, she has attended the marriage of the respondent's brother, but at that time also the respondent and his parents raised the quarrel with her as insufficient dowry is given to the present respondent. She was also assaulted by her sister-in-law. Though she disclosed these facts to her parents, but her parents advised and explained her about the marital bond. However, the respondent did not allow her to join the cohabitation and therefore, she constrained to leave the matrimonial house.

6. It is contention of the mother of the present applicant that after the birth of the applicant, she brought him up. Now, he is 14 years school going child. The prices of the essential commodities rising day by day. The present respondent has not made any provision for his maintenance. She has incurred the expenses towards food, clothing, education and for other

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requirements of the child. The respondent is working as a Medical Officer and earning salary more than Rs.1,50,000/-. She is also working and getting income of Rs.70,000/- to Rs.80,000/-, which she is incurring towards the bringing of the said child and therefore, she approached to the learned Family Court for grant of maintenance for the child.

7. In response to the notice, the present respondent resisted the claim of maintenance and denied the contention of the mother of the applicant and stated that time to time he has incurred the expenses towards the education of the child. It is further contended that it was the mother of the child who was raising quarrel with him and was not ready to stay in a joint family i.e. with parents of the present respondent. Though, he has filed a petition for Restitution of Conjugal Rights, she denied to join the company of the present respondent and with false allegations, the petition for maintenance was filed.

8. The mother of the applicant as well as the respondent both have adduced their evidence. After appreciating the evidence, the learned Family Court held that the present respondent is having adequate income to grant maintenance to the child and therefore, awarded the maintenance at the rate of Rs.15,000/- to the present applicant from the date of order.

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9. Being aggrieved and dissatisfied with the same, present revision application is preferred by the applicant through his mother on the ground that the amount of maintenance granted by the learned Family Court is inadequate. The respondent is working as a Senior Medical Officer, Regional Mental Hospital, Nagpur and drawing a handsome salary of around Rs.1,50,000/- per month and also enjoying other benefits and perks. Being a father he is duty bound to maintain his son. While granting maintenance, the Family Court has not considered the status of the father of the child. The child has every right to lead the life as per the status of his father. Moreover, mother has to incur all daily necessities, school expenses, expenses of curricular activities. The respondent who is being the father having handsome salary and no other person is dependent on him. On the contrary, the mother of the child, though working as a Medical Officer, but she is getting take-home salary of Rs.48,000/- per month. She has already taken the responsibility of the child and already incurring the expenses, however, due to limited salary, she is unable to given all the facilities to the child and therefore, the maintenance amount deserves to be modified.

10. Heard learned counsel Mr. Neware for the applicant. He has taken me through the entire evidence and submitted that it is an undisputed fact that the parents of the child are medical professionals. It is also undisputed that the respondent is

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working as a Senior Medical Officer in The Regional Mental Hospital, Nagpur. Admittedly, he is drawing a salary of approximately Rs.1,50,000/-. His parents especially his father getting pension and therefore, his father is not dependent of him. Thus, except the child, nobody dependent on him. On the contrary, the natural guardian of the child i.e. mother who is also a medical practitioner and serving as a Medical Officer. She is getting meager amount towards her salary. Her income is Rs.70,000/- to Rs. 80,000/- per month. She is already incurring the expenses towards education, medical expenses, day to day needs and thereby performing her duties. The amount of Rs.15,000/- is a very meager amount considering the prices of essential commodities are rising. The educational expenses are also rising day by day. Some amount is to be incurred towards extra curricular activities of the child. The child has every right to lead the life as per the status of the parents. It is difficult to lead the life as per the status of the parents in a meager amount of Rs.15,000/- and therefore, the order of grant of maintenance deserves to be modified.

11. Learned counsel in support his contention placed reliance on:

(i) Writ Petition No.3828/2024, decided on 12.12.2025,

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(ii) **Dr. Kulbhusan Kunwar vs Smt. Raj Kumari, Law Finder Doc Id #108245,**

(iii) **Kalyan Dey Chowdhury vs Rita Dey Chowdhury Nee Nandy [2017 (5) Scale 55],**

(iv) **Matapher Vs. State of U.P. and another** reported in **2024(4) Crimes 344,**

(v) **Meka Veeraju Chowdary Vs. Mrs. Ramani Vinnakota Law Finder Doc Id # 2688953,**

(vi) **Michael A. B. Lobo vs Smitha Michael Lobo, Law Finder Doc Id # 2827258,** and

(vii) **Rajnesh vs Neha and another** reported in **AIR 2021 SC 569.**

12. Per contra, learned counsel Mr. Jaltare for the respondent submitted that it was the mother of the child who left the company of the respondent. The respondent has already performed and discharged his duty towards his child and incurred the expenses time to time. The respondent owes duty towards his parents also. The amount of Rs.15,000/- is just and proper. He further submitted that mother of the applicant is also under legal obligation to incur the expenses for the maintenance of her own child and she cannot shift all the liabilities only on the father. He submitted that the various documents filed by the present respondent shows that he has incurred the expenses towards school fees, towards his extra curricular activities, summer camps, food, clothes, sports activities etc. He is ready to incur such expenses in future also. As far as the enhancement

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of the amount is concerned, no case is made out for enhancement of the maintenance amount.

13. In support his contention he placed reliance on **Padmja Sharma vs Ratan Lal Sharma** reported in **(2000) 4 SCC 266**.

14. After hearing rival submissions of the parties, it is apparent that there is no dispute that the respondent and mother of the child are husband and wife and they are Medical Officers by profession. There is no dispute that the child born from the said wedlock and the said marriage is still in existence. There is no dispute that the present respondent filed petition initially for restitution of conjugal rights bearing No.A-96/2015. Thereafter, he filed a Petition N.A-1392/2016 for decree of dissolution of marriage and the applicant preferred an application through his mother for grant of maintenance.

15. In support of the contention, the mother of the child entered into the witness box and adduced her evidence. She has narrated as per her written statement. As per her petition, she has subjected for cruelty by the present respondent and present respondent has also refused and neglected her. Her evidence shows that she made an attempt to maintain harmony in the family, therefore, she has adjusted in the family, but there was no change in the behaviour of the present respondent. She was abused and assaulted by the respondent and therefore, she

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constrained to leave the matrimonial house. She placed reliance on Medical Bills Exh.34 collectively, Stationary Bills Exh.35, School Uniform Bills (Exh.36), Medical Treatment Bills of her child (Exh.37), her pay slip and the documents a to the expenditure. Her cross-examination shows that her net salary at the time of her cross-examination i.e. in the year 2022 was Rs.70,000/- per month. She also admits that she get salary increment every year. Thus, it is an admitted position that she was drawing salary of Rs.70,000/- in the year 2022. It is an admitted position that the child is staying with her and various bills and documents on record shows that she has incurred the expenses towards the upbringing of the child.

16. To counter her evidence, the respondent has also entered into the witness box and reiterated as per his petition. It is alleged by him that it was the mother of the child, who was raising the quarrels with him as well as with his parents. She left his company. There was no refusal and neglect.

17. As the present revision application only on account of quantum therefore, it is not necessary to refer the evidence as to the cruelty to the mother of the child. The respondent admitted that he is qualified as MBBS and Diploma in Psychological Medicine. His specialization is in a Human Psychology and Mental Disorder. At the time of his evidence, he was working in

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Regional Mental Hospital, Nagpur. In the year 2022 he was drawing salary of Rs.1,50,000/-. His cross-examination shows that the mother of the child was doing internship at Bilaspur. His cross-examination further shows that he was knowing that as the mother of the child was doctor and she will continue working after marriage. He further admits that she was preparing for PG entrance examination. At the time of her delivery, she has also suffered from hypertension. The birth of the child is 16.08.2012. He further admits that the applicant child was under treatment of Dr. Shingade at Nagpur. However, he has no idea whether the respondent was bringing the child all the way from Rajnandgaon to Nagpur for treatment. He admits that at the relevant time, the child was residing along with his mother at Rajnandgaon. He further admits that at the time of marriage, the car was gifted to his wife by her parents which was kept in Nagpur at his house. He further admits that he went to stay separately for some other reason. Towards the other responsibility, he admits his father was working with BSNL and drawing pension approximately Rs.50,000/- to Rs.55,000/-. His mother is not alive. He also admits that he has not paid any premium towards the insurance of the child. He repeatedly admits that his salary is Rs.1,50,000/- per month and his salary is higher than the salary of mother of the child. Thus, his evidence shows that he is drawing salary of Rs.1,50,000/- per month, except the said child,

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nobody is dependent upon him, as his father is already drawing pension and his mother is not alive.

18. In support of the contention, the respondent has also examined Mr. Madhukar Bapurao Bagde, who is the father of the respondent. The entire evidence of this witness is regarding the relationship between the mother of the applicant and the respondent. As far as the income point is concerned, he admits that he retired as Divisional Engineer from BSNL, Nagpur. Thus, evidence of this witness also states that he is not dependent upon the respondent.

19. On perusal of the entire evidence, it reveals that present applicant is the minor child of the respondent and mother the natural guardian of the applicant. It is also not in dispute that the said matrimonial tie is still in existence. The respondent and the mother of the applicant both are Medical Officers by profession and drawing respective salary as Rs.1,50,000/- and Rs.70,000/-. It is also not disputed that the child is already living with the mother and she is incurring the expenses towards his education. As far as the present respondent is concerned, admittedly, some bills which are filed on record shows that he has also borne some expenses towards the education of the child.

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20. Learned counsel for the applicant placed reliance on the various judgments as far as the decision in the case of **Kalyan Dey Chowdhury vs Rita Dey Chowdhury Nee Nandy** (supra) which is in respect of the maintenance to the wife. The another judgment **Dr. Kulbhushan Kunwar vs Smt. Raj Kumari** (supra) is also in respect of the maintenance to the wife. The relevant judgment would be the judgment of this Court in **Michael A. B. Lobo vs Smitha Michael Lobo** (supra), wherein it is held that the responsibility of both parents to proportionately contribute towards the maintenance of minor children, taking into account their income and financial capacity. Maintenance to be granted from the date of filing of the application to prevent deprivation during the pendency of proceedings.

21. Learned counsel for the respondent placed reliance on **Padmja Sharma vs Ratan Lal Sharma** (supra), wherein it is held that the ratio to pay maintenance to the child to be borne in the proportion of 2:1 by the parents.

22. The very purpose of Section 125 Cr.P.C. is 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

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disorderly person. Thus, he is under obligation to bear the educational expenses of his children. 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, as far as the children are concerned, it would be violence to the very object of of Section 125 Cr.P.C.

23. The principle underlying under Section 125 Cr.P.C. 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. 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" or himself would mean that means available to the deserted wife or deserted children while they were living with husband/father

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and would not take within itself the efforts made by the wife or children after desertion to survive somehow. Section 125 of CrPC is a measure of social justice and is specially enacted to protect women and children. The Hon'ble Apex Court in the case of **Captain Ramesh Chander Kaushal Vs. Veena Kaushal [MANU/SC/0067/1978]** observed that the provision 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/children. 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.

24. It is well settled that the obligation to maintain minor children is not only a statutory duty but also legal, moral, and social responsibility of both parents. Maintenance of children is not confined to bare subsistence; it encompasses their overall upbringing, education, health, and standard of living, consistent with the means and status of the parents. The law of maintenance, while being applied by a Court of law, cannot be treated as a mere contest between two parties as to who earns less on paper, but requires an overall and holistic assessment as to who is bearing the real burden of upbringing, daily

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sustenance, and needs of growing children, as compared to one who is *prima facie* and evidently shouldering his responsibilities and shirking his responsibility by misleading the Court.

25. Admittedly, the contribution of working mother in such circumstances cannot be measured merely in monetary terms. Her physical presence, emotional support, and other tasks such as supervision of homework, school routines, healthcare, meals, and moral guidance constitute a full-time responsibility that runs parallel to her professional life and cannot be measured in monetary terms. She does not have the liberty to relax after work, for her second shift begins at home with responsibilities that are demanding and yet deeply formative for the children.

26. While adjudicating the claims for maintenance, especially in cases involving minor children, the Court is not merely mediating a financial dispute between a husband and a wife, rather, it is addressing the complex realities of a family where the focus must be on the welfare of the children, while also ensuring dignity and fairness to both the parents.

27. A child who is living with a single parent should not feel deprived, either materially or emotionally. Maintenance must ensure that the child is able to live with the same dignity as he would have, had been living with both the parents, particularly with the financial security that may have come from the father's

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support. The issue is not merely of the sustenance, but about preserving the child's self-esteem, continuity in education, lifestyle, and access to opportunities. The Court has to consider the needs of a vulnerable child and the parent be it mother or father who has taken on the primary responsibility for that child's upbringing. Therefore, the judicial lens must widen beyond the binary of marital conflict and focus on creating a framework of dignity, continuity, and care for the child.

28. In case of **Padmja Sharma vs Ratan Lal Sharma** (referred supra), the Hon'ble Apex Court observed that where both parents they are required to contribute towards the maintenance of their children in proportion of their respective incomes.

29. In **Rajnish vs Neha and another** (supra), wherein also the Hon'ble Apex Court reiterated that an able-bodied husband cannot escape his obligation to maintain his children by pleading lack of income, particularly when such a plea is unsupported by complete and honest disclosure. It was also held that while expenses may be shared proportionately if the wife is earning, the primary obligation to meet educational and essential expenses ordinarily rests upon the father.

30. The mere fact that the wife is earning does not absolve the husband of his responsibility to maintain his minor children.

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Admittedly, the respondent is a medical professional and earning handsome amount as a salary i.e. Rs.1,50,000/-. A child for upbringing does not only require money. A lot of time and effort goes in upbringing of the child. It would be incorrect to hold that both the parents are equally responsible for the expenses of the child. A mother who has custody of the child not only spends money on the upbringing of the child but also spent substantial time and effort in bringing up the child. One cannot put value to the time and effort put in by the mother in upbringing of the child. No doubt, mother, if she is earning, should also contribute towards the expenses of the child but the expenses cannot be divided equally between the two.

31. The law of maintenance, while being applied by Court of law, cannot be treated as a mere contest between the two parties as to who earns less on paper, but requires an overall and holistic assessment as to who is bearing the real burden of upbringing the child and looking after the needs of the growing children as compared to one who is *prima facie* and evidently avoiding his responsibilities by misleading the Court.

32. I am also conscious of the fact that every child has innumerable daily needs many of which are intangible, small, and incapable of precise articulation in a petition which may be filed before a court of law. These could range from school-related

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requirements, minor medical needs, hobbies, social activities, to something as ordinary yet important as going on a picnic with friends. Such needs are essential for the holistic development of a child and cannot be ignored merely because they are not quantifiable or specifically listed. At the same time, the maintenance must not result in unfair financial burden on the father, especially when the wife and husband awarded no separate maintenance for herself. What is to be looked into is the what is just, equitable and necessary for the welfare of the child.

33. Thus, maintenance cannot be determined by applying rigid arithmetic standards. One cannot determine maintenance by applying any arithmetical formula. There is no fixed percentage or rigid calculation that can universally apply to all cases. Every family is different, each situation is unique, and practical realities must guide the exercise of the Court's discretion. What may be adequate in one case may be wholly insufficient in another. It is, therefore, important for the Court to adopt a contextual, case-specific approach while keeping the best interests of the child at the core.

34. The right to maintenance is commensurate to the right to sustenance. This right is the right to dignity and a dignified life, which in turn flows from Article 21 of the Constitution of India. In a way, the right to maintenance being equivalent to a

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fundamental right will be superior to and have overriding effect than the statutory rights afforded to Financial Creditors, Secured Creditors, Operational Creditors or any other such claimants encompassed within the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, the Insolvency and Bankruptcy Code, 2016 or similar such laws observed by the Hon'ble Apex Court in the case of **Apurva Vs Dolly & Ors. [MANU/SCOR/137549/2024]**.

35. The averments made on behalf of the respondent as well as the applicant regarding that the applicant is in the custody of wife i.e. mother of the applicant. She is drawing salary approximately of Rs.70,000/-, whereas the respondent is drawing salary of Rs.1,50,000/-. It is an admitted position that the respondent is serving as a Senior Medical Officer and drawing salary of Rs.1,50,000/-. It is also undisputed fact that nobody is dependent upon the respondent except the minor child. It is also to be taken note of that the applicant is a growing child aged about 14 years. He has every right to lead the life as per the status of his parents, who are medical professionals. The mother of the child has to incur the expenses not only towards food, clothing, but towards his hobbies, aspirations, education, extra curricular activities, his medical treatment and so on. Therefore, keeping in view the facts and circumstances of the case, I am of the considered opinion that the learned Family Court has not

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taken into account the financial capacity of the respondent and also not taken into account the child is growing his educational expenses would rise day-by-day, he is in requirement of more attention. The expenses are required to be incurred to fulfill his aspirations as well as towards his hobbies, medical treatment etc. The respondent is earning a monthly income of Rs.1,50,000/-, which is an admitted position. His father is not dependent on him as he is having separate source of income from his pension. In such circumstances, it would be just and equitable that the financial responsibility towards the upbringing of the minor child is to be shared more by the father of the child. Taking into account the respective incomes of the parties and considering the reasonable expenses likely to be incurred towards the children's maintenance, education and overall well being, I find that the maintenance at the rate of Rs.30,000/- per month would be in the interest of justice, and therefore, the revision application deserves to be allowed. In view of that, I proceed to pass following order:

ORDER

- (i) The Criminal Revision Application is **allowed**.
- (ii) The impugned order of maintenance passed by the learned Family Court, Nagpur, in Petition No. E-184/2016 granting maintenance at the rate of Rs.15,000/- per month to the minor child is enhanced to the tune of Rs.30,000/- [Rs.Thirty Thousand] per month

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from the date of the application i.e. from 07.12.2016, till he becomes independent.

(ii) The respondent is also directed to pay an amount of Rs.10,000/- [Rs. Ten Thousand] to the applicant towards litigation expenses.

The criminal revision application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate.