

MHSI010006432023



Received on : 21.08.2023

Registered on : 21.08.2023

Decided on : 01.07.2026

Duration : Ys Ms Ds
02 10 10

**IN THE SESSIONS COURT, SINDHUDURG,
AT OROS**
(Present: S. T. Tripathi, Additional Sessions Judge.)

**Criminal Revision Application No.21/2023.
Exh.No.13**

Shri.Mahaveer Bhupal Upadhye.

Age about 45 years,
Occ. Rickshaw Business,
R/o. Nagav, Post. Ispurli,
Tal. Karveer, Dist. Kolhapur.

...Applicant
(original
respondent)

VERSUS

**1. Sou. Shubhangi Mahaveer
Upadhye.**

Age 44 years, Occu. Household,
R/o. At and Post Kharepatan,
Tal. Kankavali, Dist. Sindhudurg.

..Respondent 1
(original Applicant)

2. State of Maharashtra.

..Respondent 2
(State)

Appearance:

Ld. Adv. A. A. Shaikh, for applicant/petitioner
Ld. Adv. Shri. S. V. Devasthali, for respondent 1
Ld.A.P.P. Shri. R. V. Desai for respondent 2.

**Revision Application under
Section 397 of the Code of
Criminal Procedure, 1973.**

JUDGMENT

(Delivered on this 01st Day of July, 2026)

Challenge in this revision petition u/s. 397 of the Code of Criminal Procedure, 1973 is to the correctness, legality or propriety of order dated 24.07.2023 passed below Exh.4 by learned Judicial Magistrate, First Class, Kankavali in Criminal Miscellaneous Application No.01/2023, by which the application for interim maintenance was partly allowed. (Here-in-after the parties will be referred to, by their nomenclature, in the original complaint.)

2. Briefly stated, the facts of this case, as alleged, are that, Criminal Miscellaneous Application No. 01/2023 was filed against respondent/husband claiming reliefs under Sections 16, 17, 18, 19, 20, 21 and 22 of the Protection of Women from Domestic Violence, 2005, (for short, 'the P.W.D.V. Act), wherein application (Exh.4) for interim maintenance under Section 23 of the P.W.D.V. Act was filed. Respondent in his say (Exh.10) opposed the application. However, the learned Magistrate passed order on 24.07.2023 allowing interim maintenance of Rs.6,000/- per month to the applicant/wife and their three children. Being aggrieved and dissatisfied with the same,

present revision petition has been preferred against the impugned order.

3. Learned advocate Shri. A. A. Shaikh contends that the impugned order is wrong and illegal. The children of applicant and respondent have completed 18 years of their age and they are earning persons. On the contrary, considering the age of respondent, his children are liable to pay him maintenance. Respondent is labour and not able to pay maintenance. Though he is auto-rickshaw driver, he is not plying auto-rickshaw and doing labour work. The order is wrong and not on merits. Hence he prayed that above order be set aside.

4. Heard learned advocate Shri. Shaikh for the respondent/husband and learned A. P. P. Shri. R. V. Desai for respondent 2/State. Learned advocate Shri. Devasthali for the complainant/wife remained absent. However I shall proceed on merits in the criminal revision petition of this nature as it cannot be dismissed in default.

5. Points for determination along with their respective findings for the reasons are discussed hereunder.

<i>Sr.No.</i>	<i>Points</i>	<i>Findings</i>
1.	Does the impugned order call for interference of this Court?	No

2.	What order ?	This revision petition stands dismissed.
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REASONS

6. As the following points are interlinked with each other, they are discussed simultaneously for the sake of convenience and to avoid repetition.

Points 1 and 2.

7. At the outset it is relevant to mention that learned Adv. Shri.Shaikh for the respondent/husband has filed pursis (Exh.11) stating therein that he does not want to proceed with this revision petition, as applicant, respondent and their children are residing together with the respondent/husband. Thus it appears that this matter has been compromised between the parties.

8. That apart, taking up the merits of the case, admittedly respondent Mahaveer Bhupal Upandhye and applicant Shubhangi Mahaveer Upadhye are husband and wife and their three children Tanuja, Rutuja and Prathamesh have been born from aforesaid wedlock. They are residing along with petitioner/applicant/wife separately from respondent/husband. The respondent/husband has not made any provision for their maintenance and has subjected the wife to domestic violence. They are unable to maintain themselves. The respondent/husband is engaged into auto-rickshaw

business. According to the respondent/ husband, his own monthly expenses is Rs.7,000/-. The respondent/husband himself states that he owns an auto-rickshaw. Thus he has source of income and he can provide maintenance. It is his responsibility to provide maintenance to children. He cannot absolve his liability of providing interim maintenance only by saying that he does not ply auto-rickshaw.

9. In the light of the above discussion, I hold that learned Judicial Magistrate, First Class, Kankavali has rightly applied his mind by assigning proper reasons and has provided reasonable maintenance in proportionate to the income of the respondent/husband. I do not find any incorrectness or illegality or impropriety in the order of the learned J. M. F. C.. Consequently, the impugned order calls for no interference. Resultantly, this revision petition is liable to be dismissed. Hence, finding stands recorded to **point 1 in the 'negative'** and point 2, as under.

ORDER

1. This Criminal Revision petition stands dismissed.
2. Inform the learned trial court.

(Dictated and pronounced in the open Court)

Date :01.07.2026.

(S. T. Tripathi)
Additional Sessions Judge-1,
Sindhudurg-Oros