

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (FOR MAINTENANCE) NO. 400 of
2025**

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PARESHBHAI AYBHAI JAGDA (PARESHBHAI AJAYBHAI JAGDA)**Versus****STATE OF GUJARAT & ORS.**

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Appearance:

MR PP MAJMUDAR WITH MR KEVAL R DHOLAKIYA(12277) for the Applicant(s) No. 1

MR. KUSH N. BAVISHI(14121) for the Applicant(s) No. 1

MR HK PATEL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR**Date : 17/03/2025****ORAL ORDER**

1. By way of this application under Section 438 read with Section 442 of the BNSS, the applicant has prayed for quashing and setting aside the order dated 16.01.2025 passed by learned Judge, Family Court No.3, Rajkot, in Criminal Misc. Application No.87/2023, whereby, the learned Family Judge has been pleased to fix the maintenance of Rs.13,000/- p.m to respondent No.1 – wife and Rs.7,000/- to respondent No.2-minor son and thereby, fixed maintenance of Rs.20,000/-.

2. The learned counsel for the applicant has submitted that the trial court erred in passing the order of maintenance without considering the material produced on record, and instead, passed the decision on presumptions and surmises. In fact, the respondent No.2 herself deserted from matrimonial house. However, the trial court failed to take this aspect into account. The applicant to show his bonafide, is ready and willing to pay the arrears amount. In light of these facts, the applicant requests that the present application be allowed.

3. On the contrary, learned counsel for the respondents has submitted that the applicant has failed to pay maintenance, and Rs.3,99,500/- towards maintenance remain unpaid till date. The applicant

has silent income from his independent business and yet his actual income has not been disclosed on record. Considering these facts, the trial court has properly appreciated the evidence and awarded maintenance. If the order is stayed, the respondents would face severe hardship.

4. Having heard learned counsel for the parties and perusing the material placed on record, it appears that Rs.3,99,500/- lacs is yet to be paid towards arrears of maintenance to the respondents. Learned counsel for the applicant on instructions states that the applicant is ready and willing to pay the amount of arrears. However, considering the controversy involved in the matter, revision application deserves consideration.

5. In view of the above, as an amount of Rs. 3,99,500/- is still due from the applicant towards arrears of maintenance, the applicant is directed to pay Rs. 1,99,750/- towards maintenance within a period of **15 days**. Thereafter, the applicant shall pay the remaining amount of Rs.1,99,750/- towards maintenance within a period of one month thereafter. It is further clarified that, after clearing the arrears, the applicant shall pay a regular interim maintenance of Rs. 10,000/- per month (50 % of the total maintenance amount fixed by Family Court), subject to the outcome of the present revision application.

6. For the foregoing observations, application deserves consideration. **Rule**, returnable on **24.04.2025**. Pending present criminal revision application, order dated 16.01.2025 passed by learned Judge, Family Court No.3, Rajkot, in Criminal Misc. Application No.87/2023 is hereby stayed, subject to pay regular interim maintenance of Rs. 10,000/- per month to the respondents.

(HASMUKH D. SUTHAR,J)

SUCHIT