

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (FOR MAINTENANCE) NO. 624 of
2014**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

Approved for Reporting		
	Yes	No

JITENDRAKUMAR AMBALAL KONDI
Versus
STATE OF GUJARAT & ORS.

Appearance:

ADVOCATE NOTICE SERVED for the Applicant(s) No. 1
BELABEN M NAYAK(7722) for the Respondent(s) No. 2,3,4
MR BHUNESH C RUPERA(3896) for the Respondent(s) No. 2,3,4
MS SHRUTI PATHAK, APP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE HASMUKH D. SUTHAR

**Date : 06/04/2026
JUDGMENT**

1. It is required to be noted that on 31.07.2025, an advocate's notice was issued to the applicant, as his earlier advocate had been appointed as a Public Prosecutor. Though served, none appears for the applicant. Therefore, it clearly appears that the applicant is not interested in prosecuting the present matter. Hence, in view of the judgment of the Hon'ble Apex Court in the case of **Taj Mohammad v. State of Uttar Pradesh, decided on 11.08.2023 in Criminal Appeal No.2421 of 2023**, this Court has considered the averments made in the application as well as the material placed on record and has proceeded to decide the matter in the absence of the applicant based on available

material on record.

2. By way of the present application, the applicant has requested this Court to quash and set aside the judgment and order dated 18.01.2014 passed by the learned Family Court No.1, Ahmedabad in Criminal Misc. Application No.1202 of 2013.

3. It is the case of the applicant that the marriage between the petitioner and respondent No. 1 was solemnized on 03.03.2002 according to Hindu rites and rituals, and out of the said wedlock, respondent Nos. 2 and 3 were born. According to the petitioner, initially the matrimonial life of the parties was cordial; however, with the passage of time, respondent No. 1 started quarrelling with the petitioner and his family members on trivial issues. It is the case of the petitioner that despite his efforts to maintain the matrimonial relationship and provide all necessary facilities, respondent No. 1 left the matrimonial home on 26.08.2007 and thereafter filed Criminal Misc. Application No. 2934 of 2007 seeking maintenance. The said application came to be partly allowed by the learned Court vide order dated 14.05.2013, whereby maintenance of Rs.2,500/- per month was awarded to respondent No. 1, Rs.2,000/- per month to respondent No. 2 and Rs.1,500/- per month to respondent No. 3 from the date of filing of the application, along with Rs.1,000/- towards costs. Thereafter, respondent Nos. 1 to 3 filed Criminal Misc. Application No. 1202 of 2013 under Section 125(3) of the Code of Criminal Procedure, 1973 for recovery of arrears of maintenance, and by the impugned order dated 18.01.2014, the

learned Family Court, Ahmedabad directed the petitioner to undergo simple imprisonment for 660 days. It is the case of the petitioner that he has been in judicial custody since the passing of the said order.

4. It appears from the record that for recovery of the maintenance amount of Rs.3,97,000/-, a recovery application came to be filed as the applicant failed to comply with the order. Thereafter, the applicant voluntarily appeared before the learned Family Court and submitted an application below Exhibit 6 requesting the Court to take up the matter on board on 18.01.2014. The applicant also submitted a separate application below Exhibit 7 stating that he wanted to surrender before the Court as he was unable to pay the maintenance amount and requested the Court to impose a lesser sentence. Thereafter, below Exhibit 8, the learned Court recorded the statement and verification of the applicant, wherein he admitted that he has to pay maintenance of Rs.3,97,000/- to his wife and children. He further admitted that he had received the notice but was unable to make the payment as he did not possess any movable or immovable property. He also stated that he was unable to maintain the respondents and was not ready and willing to pay the said amount. The applicant did not seek any further time for payment and straightway admitted his liability. The Court explained to him that, in case of failure to make payment, he would have to undergo sentence, and after understanding the said consequences, he affirmed his signature on 18.01.2014.

5. In the aforesaid background, the learned Family Court

passed an order imposing ten days' simple imprisonment for default of each month's maintenance. Since the default pertained to 66 months, a total sentence of 660 days was imposed after granting the benefit of set-off. Considering the aforesaid facts, the sentence of ten days for each month of default cannot be said to be disproportionate. The applicant himself had surrendered and admitted his liability and inability to pay. Therefore, no irregularity has been committed by the learned Family Judge and no case is made out for interference in revisional jurisdiction.

6. From the various judgments of the Hon'ble Supreme Court as well as learned High Court, it can be said that the husband cannot escape from his liability to maintain his wife or children because it is the legal and ethical duty of the husband to maintain them. It is the duty of the husband to maintain his wife and to provide financial support to her and their children and he cannot shirk his responsibility as husband as well as father to maintain his legally wedded wife and children, which is his social and lawful duty towards them and the wife and children would be entitled to the same standard of living, which they were enjoying while living with them. In this regard reference is required to be made in the case of **Bhuvan Mohan Singh vs Meena**, reported in **2015 (6) SCC 353**.

7. In the light of above-mentioned precedents, it appears that the impugned order deciding the application can not in any way affect the finality of the dispute between the parties. The applicant has failed to point out any patent error in the

impugned order or any miscarriage of justice. The family Court has assigned proper reasons while passing the impugned order and therefore no case is made out for interference with the concurrent findings. The application fails to satisfy the test for exercising revisional jurisdiction in light of the scope of revision laid down by the Hon'ble Apex Court in ***Amit Kapoor vs. Ramesh Chander, 2012 (9) SCC 460.***

8. Accordingly, the present revision application stands dismissed.

(HASMUKH D. SUTHAR,J)

ALI