

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***WRIT PETITION NO. 3677 OF 2024
WITH
INTERIM APPLICATION NO. 3253 OF 2026
IN
WRIT PETITION NO. 3677 OF 2024***

Yogesh Chandrakant Waghmare,

Aged about 38 years,

Residing at Room No.4, E/7,

Deonar Municipal Colony Bus Stop,

Mumbai – 400 043.

...Petitioner

Versus

1. Leena Yogesh Waghmare,

Aged about 36 years,

Residing at Flat No. B/202, C-49, Bageshri

C.H.S. Ltd., Gokuldham, Goregaon (E),

Mumbai – 400 063.

2. Chandrakant Damodar Waghmare,

Adult.

3. Sujata Chandrakant Waghmare,

Adult.

4. Smita Chandrakant Waghmare,

Adult,

All residing at Room No. 4, E/7,

Deonar Municipal Colony Bus Stop,

Mumbai – 400 043.

5. State of Maharashtra

...Respondents

Mr. Pravin Pillay, for the Petitioner.

Mr. Siddhartha Shah a/w Ms. Riya Rele i/b Mr. Siddhartha Shah and Associates, for Respondent No. 1.

Mr. Tanveer Khan, A.P.P. for Respondent No.5-State.

CORAM : *ASHISH S. CHAVAN, J.*
RESERVED ON : *18th SEPTEMBER 2026*
PRONOUNCED ON : *28th SEPTEMBER 2026*

JUDGMENT:

1. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned counsel appearing for the Respondents waive notice on behalf of the respective Respondents.

2. By way of this petition, the Petitioner-husband has assailed the orders dated 25.08.2023 passed by the learned Judicial Magistrate First Class, 67th Court, Borivali, Mumbai (“**JMFC**”), in a proceeding under the Protection of Women from Domestic Violence Act, 2005 (“**PWDV Act**”) *inter alia* granting monetary compensation of Rs.10,000/- to the Respondent No. 1-wife, which was further confirmed by the Sessions Court at Dindoshi, Mumbai vide its order dated 16.07.2024. The Petitioner-husband along with his father, mother and married sister (in-laws of the Respondent No.1-wife), who are arraigned as Respondent Nos.2, 3 and 4 respectively in the

petition are facing proceedings under the PWDV Act, by way of C.C.No.213/DV/2019 before the learned JMFC, 67th Court, Borivali, Mumbai. Upon an application by the Respondent No.1-wife seeking interim monetary compensation invoking Section 23 of the PWDV Act, the learned JMFC passed an order dated 25.08.2023 in her favour granting her monetary compensation of Rs.10,000/- per month.

Aggrieved by this order, the Petitioner-husband approached the Sessions Court at Dindoshi, Mumbai, by way of an Appeal under Section 29 of the PWDV Act, assailing the order of the learned JMFC on several grounds.

By way of the impugned order dated 16.07.2024, the Sessions Court dismissed the Appeal of the Petitioner-husband, against which the Petitioner has invoked the writ jurisdiction of this Court.

3. Heard Mr. Pillay, for the Petitioner, Mr. Shah for Respondent No. 1 and Mr. Khan, A.P.P. for Respondent No.5-State.

4. The learned counsel for the Petitioner has assailed the concurrent findings saddling him with monetary compensation to

be paid to the Respondent No.1-wife to the extent of Rs.10,000/- on several counts. He contends that the order of the learned JMFC has not taken into consideration the fact that the Respondent No.1-wife is in a sound financial condition and has sufficient income which is borne out by the material on record. He submits that the learned JMFC has ignored the relevant factors for deciding the quantum of maintenance of a wife who seeks monetary compensation against the husband under the PWDV Act. Lastly, he contended that the real income of the wife is suppressed and she has not produced the Income Tax Returns as envisaged by law. Thus, the computation of the learned JMFC in arriving at figure of Rs.10,000/- is flawed, erroneous and suffers from non-application of mind.

5. Countering these submissions, learned counsel for the Respondent No.1-wife invited my attention to both the concurrent findings, arguing that the aspect of sufficiency of the compensation and comparison between the relative incomes of the husband and wife are disputed questions of fact which ought not to be considered by this Court in writ jurisdiction. He also submitted that the order of the learned JMFC dated 25.08.2023 is neither unreasonable nor

excessive and considers the documents relied upon by the rival parties. Similarly, the order dated 16.07.2024 passed by the Sessions Court at Dindoshi, also considers the Annual Income of the husband in juxtaposition with the wife and on the basis of the documents on record arrives at the subjective satisfaction that the appeal of the Petitioner-husband deserves to be rejected.

6. Appreciating the rival submissions, it emerges with clarity that the challenge to the concurrent findings which is mounted by the Petitioner-husband must be considered from the conspectus of the parameters exercised by this Court in its writ jurisdiction. Undoubtedly, this Court cannot deal with the disputed questions of fact agitated by either of the parties and must confine its scrutiny only to whether the orders impugned by the Petitioner-husband are in consonance with law and reflect application of mind and reasoning. A perusal of the impugned order dated 25.08.2023 records that although, the wife has sought interim maintenance (monetary compensation) to the extent of Rs.50,000/- the learned JMFC has observed that the same is unreasonable and considering the relative living standards of the husband and wife and their economic and educational background, has awarded a monthly

maintenance of Rs.10,000/-. This order is passed by the learned JMFC invoking his powers to grant interim orders under Section 23 of PWDV Act. Needless to state that the power exercised by the learned JMFC is in the nature of a discretionary relief. Therefore, what needs to be examined is whether the discretion exercised by the learned JMFC is arbitrary or capricious. The impugned order records an observation that the Respondent No.1-wife has established a *prima facie* case of commission of Domestic Violence and after considering the relative social and economic backgrounds of the husband and wife proceeded to pass the impugned order. It is not for this Court to get into the disputed questions of fact regarding the income and expenditure of the husband and wife, since that is an aspect to be considered by the learned Trial Court during the course of the proceedings pending before it.

7. Examining the impugned order of the Sessions Court at Dindoshi dated 16.07.2024, which rejects the Appeal of the Petitioner-husband, it is evident that the learned Sessions Judge has taken into consideration the annual incomes of the husband and wife. He has perused the bank statement entries of the Petitioner-husband and has observed that the income of the Petitioner-husband

is higher than that which is shown in his income tax return. He has also noted that the relative income and expenditure statements can be considered at the time of trial and has relied on the Judgment of the Apex Court in the case of *Shalu Ojha v/s Prashant Ojha*¹, holding that the duty of the Court while providing interim maintenance is to ensure that the immediate financial needs of the aggrieved parties are met. The purpose of the interim maintenance is to prevent undue hardship and to ensure a basic standard of living for the aggrieved party. With these observations the learned Sessions Judge has rejected the appeal of the Petitioner. I find that the impugned order dated 16.07.2024 is neither arbitrary nor capricious and rightly exercises the appellate jurisdiction vested in the learned Sessions Judge. I find force in the submission of the learned counsel for the Respondent No.1-wife that this Court in its writ jurisdiction ought not to enter into disputed questions of facts. Consequently, the challenge to both the impugned orders and the concurrent findings against the Petitioner-husband must fail. Resultantly, the Writ Petition is dismissed. Rule is discharged.

It is made clear that this Court has not commented on the merits of the Domestic Violence proceedings before the learned

1. (2015) 2 SCC 99

JMFC and those proceedings may continue uninfluenced with the aforesaid observations.

With the disposal of the writ petition, accompanying Interim Application does not survive. The same is disposed of accordingly.

ASHISH S. CHAVAN, J.