

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 192 OF 2015

1. Dr. Anil Surajmal Zawar
Age : 58 Yrs., Occ.
Medical Practitioner,
R/o : Sahayog Building,
Deshmukh Wadi, Pachora,
Tq. Pachora, Dist. Jalgaon.
2. Sau. Anita Anil Zawar
Age : 54 Yrs., Occ.
Household, R/o : Sahayog
Building, Deshmukh Wadi,
Pachora, Tq. Pachora,
Dist. Jalgaon.
3. Sau. Shantabai Surajmal Zawar
Age : 75 Yrs., Occ.
Household & Business,
R/o : Sahayog Building,
Deshmukh Wadi, Pachora,
Tq. Pachora, Dist. Jalgaon.
4. Dr. Surajmal Ramdayal Zawar
Age : 85 Yrs., Occ.
Medical Practitioner,
R/o : Sahayog Building,
Deshmukh Wadi, Pachora,
Tq. Pachora, Dist. Jalgaon.

**.... PETITIONERS/
[ORIGINAL OPPONENT
NOS. 2 TO 5]**

V E R S U S

1. Smt. Sneha Sunil Zawar

Age : 47 Yrs., Occ.

Household, R/o :

Pachora, Tq. Pachora,

Dist. Jalgaon.

At present – C/o

Dr. Sanjeevkumar Shankarlal

Kalantri, Opp. Bus stand,

Muktainagar, Dist. Jalgaon.

2. Sunil Surajmal Zawar

Age : 50 Yrs., Occ.

Agriculturist, R/o :

Sahayog Building,

Deshmukh Wadi, Pachora,

Tq. Pachora, Dist. Jalgaon.

.... RESPONDENTS/

[R – 1 ORI. APPLICANT,

R – 2 ORI. NON APPLICANT]

3. The State of Maharashtra

.... RESPONDENT

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Mr. K.C.Sant, Advocate for Petitioners.

Mr. V.H.Dighe, A.P.P. for R -3 State.

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WITH
CRIMINAL WRIT PETITION NO. 185 OF 2015

Smt. Sneha Sunil Zawar

Age : 47 Yrs., Occ.

Household, R/o : Pachora,

Tq. : Pachora, Dist. Jalgaon.

At present – R/o Near New

Bus stand, Muktainagar, Tq.

Muktainagar, Dist. Jalgaon.

.... PETITIONER

V E R S U S

1. Sunil Surajmal Zawar

Age : 50 Yrs., Occ.

Agriculturist, R/o :

Sahayog Building,

Deshmukh Wadi, Pachora,

Tq. Pachora, Dist. Jalgaon.

2. Dr. Anil Surajmal Zawar

Age : 55 Yrs., Occ.

Medical Practitioner,

R/o : Sahayog Building,

Deshmukh Wadi, Pachora,

Tq. Pachora, Dist. Jalgaon.

3. Sau. Anita Anil Zawar
Age : 53 Yrs., Occ.
Household, R/o : Sahayog
Building, Deshmukh Wadi,
Pachora, Tq. Pachora,
Dist. Jalgaon.
4. Sau. Shantabai Surajmal Zawar
Age : 75 Yrs., Occ.
Household & Business,
R/o : Sahayog Building,
Deshmukh Wadi, Pachora,
Tq. Pachora, Dist. Jalgaon.
5. Dr. Surajmal Ramdayal Zawar
Age : 85 Yrs., Occ.
Medical Practitioner,
R/o : Sahayog Building,
Deshmukh Wadi, Pachora,
Tq. Pachora, Dist. Jalgaon.

..... RESPONDENTS

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Mr. V.B.Patil, Advocate for Petitioner.

Mr. K.C.Sant, Advocate for R – 2 to 5.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 20th FEBRUARY, 2015

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ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith. By consent of the learned counsel for the petitioners and the learned A.P.P. for State, taken up for final hearing.

2. Heard Mr. K.C.Sant and Mr. V.B.Patil, the learned counsel for the petitioners and Mr. V.H.Dighe, the learned A.P.P. for State.

3. These two Writ Petitions can be disposed of by this common Judgment, since both the Writ Petitions arise out of the Judgment and Order dated 10/12/2014 passed by the learned Additional Sessions Judge, Bhusawal in Criminal Appeal No. 158/2014.

4. Criminal Writ Petition No. 185 of 2015 is filed by wife, who has initiated proceedings in the Court of the Judicial Magistrate First Class, Muktainagar vide Criminal Case No. 29/2009 for the various reliefs u/s 12, 17 to 23 of the Protection of Women from Domestic Violence Act, 2005 [hereinafter referred as the 'Act' for the sake of brevity]. The parties in these two Writ Petitions will be referred to by their

original position in the Complaint, for the sake of convenience.

The petitioners in the Criminal Writ Petition No. 192/2015 are respondent Nos. 2 to 5 in the Complaint before the learned Magistrate.

5. Respondent Nos. 2 to 5 [in Criminal Writ Petition No. 185 of 2015] are the brother-in-law, sister-in-law [wife of respondent No. 2], mother-in-law and father-in-law of the original complainant. The husband of the complainant is not before the Court. The Complaint was contested on merit by these respondents before the learned Magistrate. The learned Magistrate, after considering the pleadings and evidence vide Judgment dated 16/01/2013, partly allowed the Complaint filed on behalf of the complainant and directed that the husband and the present respondents shall pay ₹ 10,000/- [Rupees Ten Thousand] by way of maintenance to the complainant and at the same time they should pay ₹ 5,00,000/- [Rupees Five Lacs] by way of compensation.

6. Being aggrieved by the said order, the respondents along with husband preferred statutory Appeal in the Court of the learned Sessions Judge. The said Appeal was

registered as Criminal Appeal No. 158/2014 [old Criminal Appeal No. 22/2013] and the learned Additional Sessions Judge, Bhusawal on 10/12/2014 partly allowed the said Appeal, whereby the learned Additional Sessions Judge quashed the protection order and also scale down the amount of compensation from ₹ 5,00,000/- [Rupees Five Lacs] to ₹ 50,000/- [Rupees Fifty Thousand].

7. The said Order is challenged by the original complainant/wife and the original respondent Nos. 2 to 5. After having heard Mr. K.C.Sant, the learned counsel for the respondents and Mr. V.B.Patil, the learned counsel for the original complainant/wife [in Criminal Appeal No. 185 of 2015] and after perusal of the Judgment of the appellate Court, it is clear that the appellate Court has not considered various aspects and facets, those are emerging in the matter through the evidence in support of the pleadings of the respective parties.

8. The appellate Court, being final Court in so far as finding of fact is concerned, is expected to deal with each and every issue that arises from the matter. It is expected from

the appellate Court to give finding on every aspect. While giving such finding, the appellate Court is under obligation to supplement his finding by giving reasons, since only through the reasons the aggrieved party will be able to assess his case before the superior Court. In that view of the matter, the Judgment and Order passed by the learned appellate Court dated 10/12/2014 in Criminal Appeal No. 158/2014 can not stand to the scrutiny of law and accordingly it is quashed and set aside.

9. Criminal Appeal No. 158/2014 is remanded back to the learned Additional Sessions Judge, Bhusawal, who shall decide the said Appeal after giving appropriate opportunity of hearing to the parties to the said Criminal Appeal and shall decide the same in accordance with law.

10. With these observations, Rule is made absolute.

Needless to mention, since the matter pertains to the protection of women from domestic violence, the learned appellate Court shall endeavour to decide the said Criminal Appeal as expeditiously as possible and preferably within a period of six months from the date of receipt of the order.

Since the matter is remanded back to the learned appellate Court, interim order granted by the appellate Court shall continue.

[V.M.DESHPANDE, J.]

KNP/Cr. W.P. 192....2015 - [J]