

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

**APPELLATE JURISDICTION**

**CRIMINAL REVISION APPLICATION NO.427 OF 2014**

Bhujangrao Shankarrao Bangar ... **Applicant**  
V/s.

Vaishali Bhujangrao Bangar & Ors. ... **Respondents**

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Mr.Uday Warunjikar, Advocate for the Applicant.  
Mr.Avinash Patil, Advocate for the Respondent No.1.  
Mr.S.V.Gavand, APP for the Respondent/State.

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**CORAM : A.M.BADAR J.**

**DATED : 3<sup>rd</sup> MARCH 2017.**

**P.C. :**

1            This is the revision petition by original respondent No.1/husband challenging the order of the Court below passed on an application for interim maintenance as per provisions of Section 23 of the Protection of Women from Domestic Violence Act (For short, "the D.V.Act.) awarding interim maintenance at the rate of 2,000/- per month to child named Manasvi of the aggrieved person apart from award of Rs.1,000/- towards cost of the proceedings.

2           Heard the learned Advocate appearing for the revision petitioner/original respondent No.1/husband. He vehemently argued that in the proceedings under Section 125 of the Code of Criminal Procedure before the learned Family Court, a compromise has been arrived at between the parties on 14/06/2013 and accordingly compromise pursis was filed. In terms of this compromise, the revision petitioner/original respondent had agreed to pay amount of Rs.3,000/- to the daughter of the couple with the provision for increase of 5% in it after the period of three years. With this, the learned Advocate for the revision petitioner argued that the salary of the revision petitioner/original complainant is just Rs.20,000/- per month. The husband, as well as, wife are serving as primary teachers and the wife get more salary as her HRA is more than that of the revision petitioner. There is a provision of escalation amount of maintenance for the daughter of the couple. Main proceedings are still pending and, therefore, impugned orders granting interim maintenance at the rate of Rs.2,000/- per month to the daughter of the couple amounts to burden on the husband as the wife is earning more than the husband. It is argued that maintenance amount awarded in proceedings under Section 125 of the Code of Criminal Procedure is not taken into consideration by the Court below and particularly the appellate Court.

3           The learned Advocate appearing for respondent

opposed the revision petition by contending that when the discretion exercised by the Court below is based on the evidence produced on record, the revisional Court cannot interfere in such discretion and, therefore, the revision petition deserves to be dismissed.

4 I have carefully considered the rival submissions and also perused the record made available.

5 By an order dated 14/07/2011 the learned Judicial Magistrate First Class, Pune was pleased to award maintenance of Rs.2,000/- per month to the daughter of the applicant/aggrieved person from the date of the application. Paragraph 6 of this Order shows that the learned trial Court has considered 7/12 extract of the field owned by the revision petitioner/respondent No.1 and the resultant agricultural income apart from salaries earned by both the parties. The Appellate Court in appeal has confirmed this Order of interim maintenance. In paragraph 6, it is observed by the learned Appellate Court that it is joint responsibility of both the parents to maintain the child.

6 It is well settled that provision of Domestic Violence Act are in addition to usual remedies available to aggrieved person. The maintenance awarded thereunder is in addition to other remedies available to the aggrieved person. The learned

Judicial Magistrate First Class, Pune while deciding the application for interim maintenance has considered the evidence made available by parties. That is reflected in paragraph Nos.6 and 7 of the said order. As such, it cannot be said that the order is perverse. The finding of fact arrived at by learned trial Court at interim stage is confirmed by the appellate Court.

7           It is well settled that the revisional jurisdiction can be exercised in exceptional cases when there is glaring defect of procedure or manifest error on the point of law resulting in miscarriage of justice. In the case in hand by no stretch of imagination, it can be said that the impugned order of interim maintenance is perverse. The quantum of maintenance is always at the discretion of the learned trial Court and in the case in hand, it cannot be said that the exercise of discretion is arbitrary.

8           In this view of the matter, I do not find any perversity or procedural irregularity in passing the order by the Courts below.

9           It is seen that main proceedings bearing No.1755 of 2010 are still pending for adjudication. The proceeding under D.V.Act are required to be disposed of expeditiously.

10           In this view of the matter, following order :

(i) The revision petition is dismissed with direction to the learned Trial Magistrate to dispose of the pending proceedings within a period of six months from today.

(ii) Both the parties are directed to cooperate the learned trial Court in expeditious disposal of the proceedings.

**(A.M.BADAR J.)**