

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

Criminal Writ Petition No. 01152 of 2017

District : Aurangabad

1. Sayed Navid Akram
s/o. Sayed Jabbar Hussain,
Age : 27 years,
Occupation : Private Service,
R/o. Mujib Colony,
Galli No.2, Roshangate,
Aurangabad.
2. Sayed Jabbar Hussain
s/o. Sayed Kajim Hussain,
Age : 63 years,
Occupation : Retired,
R/o. Mujib Colony,
Galli No.2,
Roshangate, Aurangabad.
3. Jamilabegum w/o. Sayed
Jabbar Hussain,
Age : 55 years,
Occupation : Household,
R/o. Mujib Colony,
Galli No.2, Roshangate,
Aurangabad.
4. Sayed Tanvir
s/o. Sayed Jabbar Hussain,
Age : 38 years,
Occupation : Service,
R/o. Mujib Colony,
Galli No.2, Roshangate,
Aurangabad.
5. Sayed Javid Akram
s/o. Sayed Jabbar Hussain,
Age : 26 years,
Occupation : Service,
R/o. Mujib Colony,
Galli No.2, Roshangate,
Aurangabad.

6. Saba Begum
w/o. Sayed Arshad,
Age : 35 years,
Occupation : Househld,
R/o. Mujib Colony,
Galli No.2, Roshangate,
Aurangabad.

7. Farah Begum
w/o. Mohd. Moinuddin,
Age : 33 years,
Occupation : Household,
R/o. Rashidpura,
Aurangabad.

.. Petitioners.

versus

Najiya w/o. Sayed Navid Akram,
Age : 26 years,
Occupation : Household,
R/o. at present
Mirza Chand Baig,
Bari Colony,
Galli No.9, near Anas Masjid,
Aurangabad.

.. Respondent.

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Mr. M.A. Khan, Advocate, for the petitioner.

Mr. S.S. Panale, Advocate, for the respondent.

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With

Criminal Revision Application No. 0189 of 2017

District : Aurangabad

Sayed Navid Akram
s/o. Sayed Jabbar Hussain,
Age : 27 years,
Occupation : Private Service,
R/o. Mujib Colony,
Galli No.2, Roshangate,
Aurangabad.

.. Petitioner.

versus

Najiya w/o. Sayed Navid Akram,
Age : 26 years,
Occupation : Household,
R/o. at present
Mirza Chand Baig,
Bari Colony, Galli No.9,
near Anas Masjid,
Aurangabad.

.. Non-applicant.

.....

Mr. M.A. Khan, Advocate, for the applicant.

Mr. S.S. Panale, Advocate, for the non-applicant.

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CORAM : PRASANNA B. VARALE, J.

DATE : 12TH FEBRUARY 2018

ORAL JUDGMENT :

Heard Adv. Mr. M.A. Khan for the petitioners & the applicant, as well Adv. Mr. S.S. Panale for the respondent & the non-applicant.

02. With the consent of parties, both the proceedings, namely, the writ petition and the revision application are taken up for hearing and disposal finally.

03. The applicant in criminal revision application no. 0189 of 2017 is before this Court challenging the order passed by the learned Judge of

the Family Court, Aurangabad, in Petition E. No. 120 of 2015, dated 30.05.2017.

04. Before I proceed to consider the merit of the present revision application, it may be useful for our purposes to state that it is not in dispute, that the respondent in these proceedings initiated two proceedings against the applicant / petitioner, namely, proceedings before the learned Judge of the Family Court under Section 125 of the Code of Criminal Procedure, 1973, for claiming maintenance and another proceedings before the learned Magistrate initiated under the provisions of Protection of Women From Domestic Violence Act, 2005 [**For short, "D.V. Act"**] and more particularly, under Section 18 of the said Act. It is also not in dispute, that marriage (*Nikah*) between the applicant and the respondent was solemnized on 23.10.2014. As per the custom prevalent, the applicant - petitioner paid amount of Rs. 11,000/- towards *Mehar*. It was the case of the respondent, that within a short span of matrimonial life of hardly 02 to 03 weeks, the respondent was treated well and soon thereafter, she was subjected to ill-treatment, physically and mentally, on the demands of the amount for construction of the house. The material placed on record show that though some attempt was made to settle the dispute, ultimately it failed and as stated above, the respondent initiated the proceedings.

05. Now, in so far as the proceedings, namely, petition before the learned Family Court for maintenance amount is concerned, it was the claim of the respondent, that the father of the respondent gifted valuable articles like some gold ornaments in the marriage. It was also submitted that the father of the respondent suffered expenses to the tune of Rs. 9,00,000/- to 10,00,000/- for various ceremonies like engagement ceremony and marriage ceremony. It was submitted that the respondent after span of 15 days, was subjected to ill-treatment i.e. beating, keeping the respondent starved on account of demand of money. It is submitted that the father of the applicant - petitioner was a retired police personnel. As such, threats were given to the respondent, that even if she opposes the ill-treatment, nothing will happen to them. It was stated that on 12th February 2015, the respondent was subjected to physical ill-treatment, abuses and ultimately she was driven out of her matrimonial home. The matrimonial inlaws demanded amount of Rs. 2,00,000/- and gave threat that if the amount is not paid to them, they will not accept her and they will not allow her to enter in the matrimonial home. Though the respondent made attempts to establish contact with the applicant - petitioner on telephone, her attempts failed. There are certain details of all these allegations of ill-treatment in the application submitted before the learned Judge of the Family Court placed on record at Exhibit "B".

06. It was submitted that the applicant is a Medical Representative, an employee of a pharmaceutical company, namely, Faijar Pharmaceutical Company, Mumbai, and is earning salary at the rate of Rs. 50,000/- per month. It is submitted that apart from salary, the applicant - petitioner (husband) also earns some amount out of the agricultural land owned by the father of the applicant - petitioner. It is stated that the respondent was residing in a residential house at Mujib Colony, Aurangabad. The area is of 1200 square feet and the house consists of 06 rooms. It was submitted that the brothers of the applicant - petitioner are self-earning. The father of the petitioner is a retired personnel. As such, the husband is not burdened with any financial responsibility of the other family members. Thus, on these grounds, an amount of Rs. 25,000/- towards maintenance was claimed.

07. The application was vehemently opposed by filing say. It was the submission in the said say, that the applicant herself was not ready to cohabit with her husband. She was time and again visiting to her parental home. It was stated that the respondent hardly stayed for a week at her matrimonial home and thereafter on one or the other excuse, she was leaving her matrimonial home. Whenever such a desire was expressed by the respondent - wife, the husband readily agreed to the desire and permitted the wife

to go to her parental home. It was then stated that the wife was suffering from an ailment namely, a gynecological issue and though this fact was known to the respondent - wife and her family members, same was not disclosed to the matrimonial relations including the husband. This fact of the ailment came to the knowledge subsequent to the marriage and it is submitted that when it came to the knowledge, an enquiry was made with the respondent and her parents. They simply told that now whatever steps they want, they can take. Thus, it is submitted in the say / reply, that the parents of the respondent were acting in a clear disrespect to the family members of the applicant - petitioner. It was then alleged that the ailment suffered by the respondent was leading to the inability of the respondent for begetting any child.

08. It is submitted that the husband also initiated proceedings for dissolution of marriage. It was submitted that the applicant - petitioner earned salary to the tune of Rs. 17,000/- per month. He has to bear the expenses for the treatment of his parents, more particularly, his father. He has to maintain his brothers and the applicant is required to go to out stations for his touring job being a Medical Representative. Thus, in short, it was submitted that the applicant - petitioner himself earns inadequate amount even to bear the responsibilities of his own family members. It was submitted that, on the contrary, the respondent -

wife is doing some tailoring work. She earns an amount of Rs. 700/- to Rs. 800/- per day from her tailoring work. It was submitted that the respondent - wife herself is earning and her earning is handsome rather than the applicant - petitioner (husband), her claim for maintenance be rejected. Perusal of the record show that the salary certificate was placed before the court.

09. Considering the claim and counter submissions opposing the claim for maintenance, learned Judge of the Family Court framed the points for determination and gave findings thereon as under :-

Sr. No.	Points	Findings.
1.	Whether the applicant proves that the non-applicant has willfully neglected and refused to maintain her ?	In the affirmative
2.	Whether the applicant is entitled to get maintenance from non-applicant.	In the affirmative.
3.	If yes, at what rate ?	Rs.6,000/- per month from the date of application i.e. 20.05.2015.
4.	What Order	As per final order.

In the detail judgment and order, learned Judge of the Family Court also refers to the parallel proceedings initiated under the D.V. Act and orders passed in that proceedings. Then, the learned Judge on the aspect of claim under Section 125 of the Code of Criminal Procedure, also refers to the judgments namely, *Sunita Kachwaha & others Vs. Anil Kachwaha* [AIR 2015 SC 554], *Gopal S. Dabharde Vs. Lilita* [1984 Mh.L.J. 562] and *Chaturbhuj Vs. Sitabai* [2008 SAR (Criminal) 14]. Then on the first point framed for consideration, with the assessment of the material placed on record, the learned Judge arrived at a conclusion that the applicant i.e. the respondent - wife established that the non-applicant i.e. the husband refused and neglected her and the first point was replied in affirmative. The second point was also replied in affirmative. On perusal of the material, I find that no error is committed by the learned Judge in replying both these points in affirmative.

10. Now, the aspect of the amount awarded towards maintenance is considered, the applicant - petitioner i.e. the non-applicant before learned Judge of the Family Court though submitted that the wife was earning Rs. 700/- to Rs. 800/- per day by doing tailoring work and as such, she was having sufficient means, there was no material placed on record by the non-applicant, either by way of some documents and even in the oral testimony. Learned

Judge clearly observed that the non-applicant has failed to establish sources of income of the applicant and further observed that, in fact, no suggestions have been put to the applicant in the cross with regard to the sources of income as alleged by the non-applicant. Learned Judge then observed that the salary slip was placed on record, for the month of January 2018 as a document Exhibit 26. The said document revealed that the applicant - petitioner i.e. the non-applicant before learned Judge of the Family Court was receiving monthly salary of Rs. 20,724/- and his home take salary amount was Rs. 19,222/-. Learned Judge also found that the other brothers were earning of their own and the parents and the brothers of the non-applicant - husband were not dependent on him. Learned Judge then in view of normal application of maintenance amount of 1/3rd of the salary, applied the very principle and arrived at a conclusion that considering the salary home taken by the non-applicant - husband, the 1/3rd amount would be Rs. 6,408/-. By rounding up the amount, the learned Judge awarded maintenance at the rate of Rs. 6,000/- per month from the date of application. Learned Judge of the Family Court also took note of the fact that in the proceedings under the D.V. Act, the applicant has been awarded Rs. 6,000/- per month towards her maintenance and thus, replying the third point for consideration also in affirmative, the learned Judge of the Family Court allowed the

application and directed the non-applicant - husband i.e. applicant - petitioner before this Court, to pay maintenance at the rate of Rs. 6,000/- per month from the date of application i.e. 20.05.2015 after adjusting the amounts paid under the provisions of D.V. Act as the quantum is identical. Learned Judge also made it clear by observing that this amount is inclusive of the maintenance granted under the D.V. Act and also gave an option to the applicant - wife namely, that the applicant can either claim an amount in the proceedings under Section 125 of the Cr.P.C. or in the proceedings under the D.V. Act. Then the learned Judge directed the non-applicant to pay costs of Rs. 1,000/-.

11. Considering the above referred factual aspects and considering the material placed on record, duly and properly assessed by the learned Judge of the Family Court, I am of the opinion that no error is committed by the learned Judge of the Family Court. The revision application being wholly merit-less, deserves to be dismissed.

12. Now, coming to criminal writ petition no. 1152 of 2017, as the facts, namely, the solemnization of marriage between the parties, span of the matrimonial life, the allegations, the submissions and the counter submissions on the aspect of the dispute between the parties, namely, the ill-treatment and the counter allegation that the husband

and his family members were not made known about the ailment suffered by the wife, are referred to by this Court while dealing with criminal revision application no. 0189 of 2017 and, as such, same are not reproduced here. Suffice to say that the respondent - wife initiated proceedings before the learned Magistrate raising her grievance under the provisions of the D.V. Act and more particularly, seeking an action under Sections 12, 18, 19, 20 and 22.

13. It was submitted before the learned Magistrate, that the husband and other family members were indulging in the act of ill-treatment and mental and physical harassment to the applicant - wife. It was submitted further that on the basis of her medical reports, the husband and the inlaws were alleging that they were subjected to an act of deceit. It was submitted that on the ground of the ailment suffered by the wife, the husband and other inlaws were continuously ill-treating the wife. It is submitted that the father of the wife also made an attempt to remove the misconception carried out by the husband and the other inlaws by subjecting his daughter i.e. the applicant to medical examination. In spite of the medical reports issued by one Dr. Dushala Dumir, husband and the other inlaws were ill-treating and were insisting that the applicant is carrying a serious gynecological ailment. Then it was submitted that on 12th February 2015, the

applicant - wife was driven out of her matrimonial home and since then she was residing with her parents at her parental home situated at Bari Colony, Aurangabad.

14. It was submitted in the proceedings initiated under the provisions of the D.V. Act, that the applicant requires an amount of Rs. 25,000/- per month for her own maintenance, for medicines, for clothings and for her routine basic needs. Then it was submitted that as the applicant is residing with her parents and there is no proper accommodation for her, either the respondent - husband to provide a better accommodation or to pay rent or to pay an amount of Rs. 5,000/- towards rent. Then it was submitted that as the respondent - husband and other inlaws subjected to the acts of domestic violence which are covered under the provisions of the D.V. Act, an amount of compensation to the tune of Rs. 50,00,000/- be paid to the applicant. This proceedings is also opposed by filing the say.

15. An application was submitted during pendency of the proceedings before the Magistrate, with a prayer of grant of interim maintenance amount to the tune of Rs. 15,000/- per month and with the other prayer seeking directions to the respondent - husband to make available two rooms with all basic amenities for the residence of the applicant in house of the non-applicant - husband at Mujib Colony, Roshangate,

Aurangabad. The application for seeking interim maintenance was partly allowed and the learned Judicial Magistrate (F.C.), Court No.14, Aurangabad, by order dated 25.08.2015, granted interim maintenance at the rate of Rs. 5,000/- per month from the date of application till the decision of the application finally.

16. In the said proceedings, it reveals from the material placed on record, that the respondent was subjected to medical examination. Learned Counsel for the petitioner - applicant admits that the petitioner - applicant was not subjected to the exercise of medical examination before the court. Learned Magistrate by order dated 19.05.2016, allowed the application partly. Learned Magistrate passed the order of grant of protection to the applicant under Section 18 of the D.V. Act. Learned Magistrate then awarded amount of Rs. 6,000/- per month for her maintenance and Rs. 1,000/- per month towards rent, as well, Rs. 2,00,000/- towards compensation. Learned Magistrate also directed the petitioner i.e. non-applicant no.01 before the learned Magistrate, to return the furniture articles and household articles purchased from one Kohinoor Shoppe, within one month.

17. Being aggrieved by the order passed by the Magistrate, the petitioner preferred an appeal before the Additional Sessions Judge, Aurangabad, being Criminal Appeal No. 102 of 2016. The order of the

Magistrate was also challenged by the wife by preferring Criminal Appeal No. 97 of 2016. Both the appeals were decided by common judgment dated 27.06.2017. Learned Sessions Judge allowed the appeal filed by the wife and dismissed the appeal preferred by the husband. The order of the learned Magistrate was modified by maintaining the order in respect of protection granted under Section 18 of the D.V. Act and maintaining the order of maintenance to the tune of Rs. 6,000/-. Learned Sessions Judge directed the petitioner - husband to pay Rs. 3,000/- per month from the date of the order i.e. 19.05.2016 to the appellant - wife towards house rent. It was further directed that the rent of Rs. 1,000/- per month paid by the respondent - husband shall be adjusted towards recovery of arrears. Then the order of compensation was also modified. The respondent - husband was directed to pay compensation of Rs. 5,00,000/- within the stipulated period of three months from the date of the order. It was further directed that the amount of Rs. 50,000/- deposited in the court by the respondent - husband shall be adjusted towards recovery of arrears of compensation of Rs. 5,00,000/-. Clause 08 of the order of the learned Sessions Judge is about identification of the articles and the same reads as under :-

" The respondent no.01 husband shall call the appellant wife and her father in the presence of the PSI of Jinsi police station to play the video shooting of the

marriage for identification of the articles presented in the marriage as jointure (stridhan) to the appellant wife and deliver the said jointure (stridhan) in the presence of PSI, Jinsi police station on identification by her subject to the acknowledgment from the appellant wife and her father. "

18. Learned Counsel appearing for the petitioner - husband vehemently submitted that the learned Sessions Judge while allowing the appeal filed by the wife and modifying the order of the Magistrate, thereby rising the amount of rent from Rs. 1,000/- to Rs. 3,000/- per month and rising the amount of compensation from Rs. 2,00,000/- to Rs. 5,00,000/-, assigned no reasons for arriving at that conclusion. Learned Counsel then submitted that the learned Sessions Judge only on assumptions and presumptions arrived at a conclusion that the learned Magistrate awarded meager and inadequate amount towards rent and compensation. It was also submission of the learned Counsel, that the learned Magistrate himself erred in granting amount of Rs. 6,000/- per month towards maintenance, Rs. 1,000/- per month towards rent and Rs. 2,00,000/- towards compensation. Learned Counsel then submitted that there is no denial from the respondent - wife, that she was suffering from an ailment, namely, PCOS. He then submitted that the petitioner was successful in bringing before the court, that though the respondent - wife was suffering the ailment and was under treatment by the

medical experts, this fact was not made known either to the husband or other inlaws. Thus, the submission is, the learned Magistrate as well as the learned Sessions Judge failed to consider this aspect and arrived at a conclusion that the respondent - wife was subjected to domestic violence. Learned Counsel for the petitioners, thus, prays for quashing and setting aside the orders impugned in the petition.

19. Mr. S.S. Panale, learned Counsel appearing for the respondent, supports the order impugned in the present petition. He made an attempt to submit that the rise in compensation to the tune of Rs. 5,00,000/- is just in view of the fact that father of the respondent - wife had to incur expenses for engagement ceremony and for marriage ceremony.

20. The petitioner has placed on record, copies of the list of articles and a *panchanama* to the effect that these articles i.e. household articles and gold articles are handed over to the wife on 14.07.2017 in view of the order passed by the learned Sessions Judge. Learned Counsel also invited my attention to the medical certificates placed on record, issued by either private medical officers or by private hospitals.

21. It may not be necessary to refer to the facts as the same are only repetition. Now, considering the proceedings of the D.V. Act, the

learned Magistrate was pleased to observe that the non-applicant i.e. the husband only submitted his written submissions / say. A *pursis* was filed on record to the effect that the non-applicants are not tendering any oral evidence. The applicant was subjected to her examination. Learned Magistrate in view of the documents placed on record, as well, in view of the cross examination of the applicant - wife, was pleased to observe that the applicant - wife was subjected to medical examination carried out by Dr. Hemant Phatale on 20.10.2014. There was material to show that the applicant - wife was carrying an ailment known as Polytheistic Ovarian Syndrome. Learned Magistrate then found that though the material placed on record reveal that the applicant was carrying said ailment of PCOS and though this fact was not made known either to the husband or his family members, there was no material placed on record in support of the submission at the instance of husband, that merely because the wife was carrying PCOS, she was unable to begot a child. It was only an allegation that the ailment resulted in incapacity of the wife. But the allegation was mere an allegation and there was nothing on record in the form of any medical evidence either to accept the submission or to say that the allegation is fortified.

22. Learned Magistrate on assessment of the material answered the points framed for consideration

in partly affirmative. Learned Magistrate on assessment of the material then arrived at a conclusion that the respondent - wife was subjected to domestic violence and was driven out of her matrimonial home and was left with no choice but to take shelter at her parental home. Resultantly, the point framed for consideration namely, whether the applicant - wife was entitled for the protection under Section 18 of the D.V. Act was replied in affirmative.

23. Now, so far as entitlement for grant of maintenance amount, grant of rent and grant of compensation is concerned, the learned Magistrate on the basis of the salary certificate placed on record, found that the husband was receiving home taken salary of Rs. 19,222/-. Though the claim was opposed by submitting that the respondent - wife was earning Rs. 700/- to Rs. 800/- per day from her tailoring activity and Rs. 2,500/- to Rs. 3,000/- by carrying out the activity of drawing *Mehandi*, there was absolutely no material to support this claim. The husband nowhere placed on record, that for an accommodation with some basic amenities in the area wherein the respondent - wife was residing was available on rental basis and for the rent less than Rs. 1,000/-. The submission of the wife was, while she was leading her matrimonial life, she was residing in the house of the husband and his parents comprising of six rooms and the couple was occupying

two rooms. Learned Magistrate, thus, considering the income earned by the husband and need of an accommodation with some basic amenities, awarded an amount of Rs. 1,000/- towards rent. Learned Magistrate then considering the material namely, ailment being caused by respondent - wife and considering the fact that the respondent - wife was ready and willing to maintain the matrimonial tie with husband, even on the day of the consideration by the learned Magistrate and then considering that there was sufficient evidence to show that the wife was subjected to domestic violence, arrived at a conclusion that amount of Rs. 2,00,000/- would be just and proper amount of compensation.

24. Now, the learned Sessions Judge while considering the appeal, by referring to the factual aspects, observed that the appellant - wife has not received inadequate relief. Learned Sessions Judge observed that very meager amount of Rs. 1,000/- offered towards the rent and then observed that on account of grave mental and physical torture and loss of married life of the respondent - wife, amount of Rs. 2,00,000/- is not adequate compensation. Learned Sessions Judge then observed that the articles offered in the marriage were of worth Rs. 8,00,000/- and the said jointure is deprived by the respondent - wife. Learned Sessions Judge then observed that the respondent - husband failed to examine any witness and filed evidence closing *pursis* at Exhibit 71.

Learned Sessions Judge then referred to the proceedings before the learned Judge of the Family Court namely, an application seeking maintenance under Section 125 of the Cr.P.C.. Learned Sessions Judge observed that though the Magistrate granted the application on the ground of sympathy, awarded the meager amount. The only reason assigned for rise in the compensation amount finds place in para 14 of the judgment and it reads thus :

"The respondent - husband admittedly performed second marriage with his cousin sister Sadiya Begum and now he is not in need to call the appellant wife to resume the married life. It also reveals from the submissions and facts that the respondent husband paid Mehar amount Rs.11,000/- immediately after the marriage but he has not given divorce. So long the marriage tie subsists, the appellant wife cannot perform next marriage as per the Muslim Law. If the wife filed the petition for Khula or petition for divorce, certainly there shall be delay for disposal in following the strict compliance of the procedural law. Therefore, the compensation amount would have been at least Rs. 5 lacs to safeguard the life of the appellant wife and to get rid from the domestic violence."

25. Now, the reason assigned by the learned Sessions Judge, that the wife will have to follow the settled procedure so as to break the matrimonial tie with the petitioner and, therefore, the amount of compensation of Rs. 2,00,000/- awarded by the Magistrate needs to be modified, cannot be said to be just and proper reason for the rise. Learned

Sessions Judge ought to have assigned independent reasons if the learned Sessions Judge was of the opinion that the amount awarded by the Magistrate, of Rs. 2,00,000/-, is too meager and is too inadequate. Learned Magistrate on considering the aspect of financial capacity of the husband, awarded the amount of Rs. 2,00,000/- towards compensation. Thus, the observation of the learned Sessions Judge, that the Magistrate awarded the amount of compensation only on sympathy, is not in consonance with the record. Learned Sessions Judge also failed to assign any reason for rise in the amount of rent from Rs. 1,000/- to Rs. 3,000/- per month. The respondent - wife submitted before the Magistrate that she was residing in her matrimonial home comprising of six rooms and her prayer was for making provision of two rooms with basic amenities in the house of the husband or to bear the burden of rent of two rooms with basic amenities. Considering this aspect and considering the prevalent rents in any area of the city like Aurangabad having a municipal corporation, the amount of rent for two rooms would be at least Rs. 1,500/-. If the learned Sessions Judge was of the opinion to rise the amount from Rs. 1,000/- to Rs. 3,000/-, then there ought to have been some material for such rise. It is true, that the amount of Rs. 1,000/- towards rental accommodation consisting of two rooms would not be sufficient and adequate. But then to give rise at the rate of Rs. 3,000/-, there ought to have been some material.

Considering this aspect, I am of the opinion that the learned Sessions Judge committed an error in grant of rent at the rate of Rs. 3,000/- per month.

26. I am unable to accept the submission of Mr. Panale, learned Counsel appearing for the respondent herein - wife, that the rise in compensation to the tune of Rs. 5,00,000/- is just in view of the fact that the father of the respondent - wife had to incur expenses for engagement ceremony and marriage ceremony. Except bare words, nothing is placed on record to support the submission that the father had to incur expenses to the tune of Rs. 8,00,000/- to Rs. 10,00,000/- for the engagement ceremony and marriage ceremony.

27. Considering all these aspects, in my opinion, the order passed by the learned Sessions Judge requires an indulgence at the hands of this Court.

28. Hence, the following order :-

(a) For the foregoing reasons, criminal revision application no. 0189 of 2017 is **dismissed**.

(b) Criminal writ petition no. 01152 of 2017 is **partly allowed**. Clause 5 of the operative order passed by the learned Additional Sessions Judge, Aurangabad, dated 27.06.2017, in Criminal Appeal No.

097 of 2016 and Criminal Appeal No. 102 of 2016, is quashed and set aside and the same is substituted as under :-

(b-1) The respondent - husband is directed to pay Rs. 1,500/- from 19.05.2016 to the appellant - wife towards house rent. If the rent of Rs. 1,000/- per month is paid by the respondent - husband, same shall be adjusted towards recovery of arrears. So also, the amount of Rs. 25,000/-, which were deposited by the respondent - husband in this Court and which amount was permitted to be withdrawn by the appellant - wife, shall be adjusted towards recovery of arrears of rent.

(c) Similarly, Clause 6 of the operative order passed by the learned Additional Sessions Judge is quashed and set aside and same is substituted as under :-

(C-1) The respondent - husband shall pay compensation of Rs. 2,00,000/- [Rupees two lacs] to the appellant - wife within a period of three months from the date of this order. The amount of Rs. 50,000/-, which were deposited by the respondent - husband in this Court and which amount was permitted to be withdrawn by the appellant - wife, shall be adjusted towards

compensation amount. So also, if any amount was deposited by the respondent - husband in the court below, towards compensation, same shall be adjusted.

(d) Save and except above modification, the order dated 27.06.2017 passed by the learned Additional Sessions Judge shall remain intact and undisturbed.

(Prasanna B. Varale)
JUDGE

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