

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

926 CRIMINAL REVISION APPLICATION NO. 263 OF 2019

**SHAIKH TAHER S/O SHAIKH PASHA
VERSUS
KALIMA BEGAM W/O SHAIKH TAHER AND ANR**

Shri. Kayyum N. Shaikh, Advocate for the applicant
Shri. Mohammed Asim Shaikh Saleem, Advocate for the respondents

**CORAM : M. G. SEWLIKAR, J.
DATED : 14th DECEMBER, 2021**

PER COURT :-

1. This application arises out of the judgment and order passed by the JMFC Court, dated 16th January, 2017 in PWDVA No. 454 of 2015.
2. Applicant has filed this application for seeking monetary relief, protection orders and compensation orders under Sections 17, 18, 19, 20 and 22, 23, 24 of Protection of Women from domestic Violence Act, 2005.
3. The learned JMFC Court awarded maintenance at the rate of Rs.7,000/- per month for applicant No.1-wife and Rs.3,000/- per month for applicant No. 4 till she attains the age

of majority from the date of filing of the application till realization the entire amount. Learned JMFC, court has come to the conclusion that there was domestic violence because of which the applicant is entitled to maintenance with separate residence. At the time of the application applicant No. 4 was minor. The learned Trial Court found that respondent is an operator in MSEB. The learned Trial Court found that applicant has sufficient income from the salary. The learned Magistrate found that applicant has caused domestic violence to respondent Nos. 1 and 4. Rest of the two are married daughter and major son. Therefore, their applications were not considered. Learned Magistrate found that applicant is getting salary of Rs.50,000/- to Rs.55,000/-. Learned Magistrate found that respondent-husband is getting salary of Rs.20,000/- to Rs.22,000/- per month. Learned Magistrate further found that during cross-examination respondent admitted that he is getting salary of Rs.45,700/- and he also admitted that he is owner of the agricultural land. Therefore, learned Magistrate found that the applicant is having sufficient means. Therefore, learned Magistrate awarded maintenance at the rate of

Rs.7,000/- per month to applicant-wife and Rs.3,000/- per month to applicant No.4 unmarried daughter till she attains the age of majority.

4. In appeal learned District Additional Sessions Judge modified the amount of maintenance and directed that Rs.5,000/- be paid as rent to the applicant-wife. This order is impugned in this revision.

5. Learned counsel Shri. Kayyum Shaikh submitted that the learned Additional Sessions Judge without any evidence has awarded Rs.5,000/- as rent to be paid to the applicant-wife. He submitted that wife is residing with her brother at Aurangabad.

6. Applicant did not adduce any evidence before the learned Magistrate to show that the respondent-wife is residing with her brother. Therefore, the learned Appellate Court was justified in rejecting the contention of the applicant and awarding Rs.5,000/- per month as rent. Admittedly, she is living separately from applicant-husband. There is no proof that she is living with her brother. Therefore, the natural corollary is that

she is staying in rented house. Therefore, the learned Appellate Court did not commit any error in awarding rent of Rs.5,000/- per month to the respondent-wife. As observed by learned Magistrate, the applicant admitted in the cross-examination that his salary is Rs.45,700/- per month. In this view of the matter, learned Appellate Court did not commit any error in awarding maintenance of Rs.10,000/- for both respondent and unmarried daughter-respondent No. 4. The learned Judicial Magistrate First Class has awarded maintenance to respondent No. 4 till she attains the age of majority. Therefore, the amount of maintenance granted at the rate of Rs.10,000/- per month is neither excessive nor unreasonable. In this view of the matter, I do not find any infirmity in the order of the learned Additional Sessions Judge confirming the order of maintenance passed by the learned Judicial Magistrate First Class. In this view of the matter, revision is devoid of any substance, hence dismissed.

[M. G. SEWLIKAR, J.]

ssp