

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO.744 OF 2019

1. Sau. Seema Narendra Diwre
Aged 33 years, Occ: Household.

2. Swati Narendra Diwre
Aged 8 years

No.2 minor through guardian
mother applicant no.1.

Both R/o Bordi, Tq. Akot,
District Akola.

..... **APPLICANTS**

...VERSUS...

1. Narendra Pandurang Diwre
Aged 40 years, Occ: Teacher.

2. Pandurang Punjaji Diwre
Aged 61 years, Occ: Cultivator.

3. Sau. Shantabai Pandurang Diwre
Aged 56 years, Occ: Household work.

All R/o Chatari, Tq. Patur,
District Akola.

..... **NON-APPLICANTS**
RESPONDENTS

CRIMINAL APPLICATION (APL) NO.96 OF 2021

Narendra Pandurang Diwre,
Aged 38 years, Occ: Service,
R/o Chatari, Tah. Patur,
District Akola.

..... **APPLICANT**

...VERSUS...

1. Sau. Seema Narendra Diwre
Aged 30 years, Occ: Home-maker.

2. Swati Narendra Diwre
Aged 9 years, Occ: Education.

Through natural guardian mother
Sau. Seema Narendra Diwre.

Both R/o Bordi, Tq. Akot,
District Akola.

3. Pandurang Punjaji Diwre
Aged 58 years, Occ: Agriculturist.

4. Sau. Shantabai Pandurang Diwre
Aged 53 years, Occ: Home-maker.

No.3 & 4 R/o Chatari, Tah. Patur,
District Akola.

..... **NON-APPLICANTS
RESPONDENTS**

Mr. P.S. Gawai, Advocate for Applicants. [APL 744/2019]

Mr. U.J. Deshpande, Advocate for Non-Applicants.[APL
744/2019]

Mr. U.J. Deshpande, Advocate for Applicant.[APL
96/2021]

Mr. P.S. Gawai, Advocate for Non-Applicants. [APL 96/2021]

CORAM: **ROHIT B. DEO, J.**

DATE: **4th MARCH, 2021.**

ORAL JUDGMENT:

Criminal Application 744/2019 is preferred by
Mrs. 'S' assailing the common judgment dated 05.03.2019
rendered by the Additional Sessions Judge, Akot in Criminal

Appeal 23/2017 and Criminal Appeal 29/2017.

2. Criminal Application 96/2021 is preferred by Mr. 'N' who is also aggrieved by the afore-referred common judgment.

3. It would not be necessary to refer to the facts minutely, since Mrs. 'S' and Mr. 'N' have arrived at a mutually acceptable arrangement on the basis of which, I propose to pass an order by consent.

4. The wife Mrs. 'S' was granted monthly maintenance of Rs.3000/- and the child from the wedlock was granted monthly maintenance of Rs.1000/-, and additionally Rs.500/- per month was directed to be paid to her towards rent, by the trial court in proceedings initiated by Mrs. 'S' under the provisions of Protection of Women from Domestic Violence Act, 2005 (DV Act).

5. The judgment of the trial court failed to satisfy Mrs. 'S', who perceived the amount of maintenance to be on the lower side and Mr. 'N' who perceived the maintenance amount as unjustified and at any rate on the higher side.

6. Mrs. 'S' and Mr. 'N' both preferred appeals and while the Appellate Court dismissed the appeal preferred by the husband, the appeal preferred by the wife was partly allowed and the maintenance granted to her was enhanced from Rs.3000/- per month to Rs.5000/- per month and the maintenance granted to the child was enhanced from Rs.1000/- per month to Rs.2000/- per month.

7. It is in this backdrop, that both Mrs. 'S' and Mr. 'N' are before me.

8. The matter was extensively heard. However, the efforts of the learned counsel appearing have culminated in a mutually acceptable arrangement, which needs to be recorded.

9. A minor's account shall be open in a nationalized bank, which shall be a joint account with Mrs. 'S' being the other account holder.

10. Mr. 'N' shall both deposit Rs.10,000/-, in the said account every month, on or before the 10th day of the calendar month.

11. The amount in the account shall be utilized exclusively for the benefit of the minor and that Mrs. 'S' shall maintain true and faithful account of the amount spent from the said account.

12. The order of the learned Magistrate and the appellate order are modified and substituted by the aforesaid arrangement, which shall come into force from the date of preferring the application for maintenance.

13. Mr. 'N' contends that he has already paid Rs.2,00,000/- to Mrs. 'S' as since there was an agreement to prefer joint petition for divorce, and that the wife did not come forward to prefer such application even after having received the amount of Rs.2,00,000/-. This assertion is seriously disputed by Mrs. 'S' who contends that she did not receive the amount of Rs.2,00,000/- from her husband, as alleged. By mutual consent, it is directed, that the issue is kept open for the court dealing with the recovery proceedings, to decide, if necessary after permitting the parties to adduce evidence.

14. It is clarified that if any amount is received by Mrs. 'S'

as interim maintenance or final maintenance that amount shall be duly adjusted against the maintenance to be deposited by Mr. 'N' in the minor's account.

15. The application is disposed of.

JUDGE

NSN