

IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION Nos. 51/2020 & 1299/2021.

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CRIMINAL APPLICATION No. 51/2020.

1.Kisan s/o Bhivram Raut,
Aged about 75 years, Occupation-
Pensioner;

2.Sau.Raiwanta w/o Kisan Raut,
Aged about 71 years, Occupation
Nil,

Both residents of Sindpuri, Post
Sihora, Tahsil Tumsar, District
Bhandara.

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PETITIONERS

VERSUS

1.Smt.Archana wd/o Arvind Raut,
aged about 37 years, Occupation
Service,

2.Ku.Samruddhi d/o Arvind Raut,
Aged about 10 years, Occupation
Student,

3.Divyanshu s/o Arvind Raut,
Aged about 8 years, Occupation

Student,

Respondent Nos.2 and 3 Minors,
Through their Natural Guardian,
Mother Smt. Archana Arvind Raut,
i.e. Respondent No.1.

All residents of c/o. Gopichand
Chauragade, Near Girls Hostel,
Bhandara, Tahsil and District
Bhandara.

4.The State of Maharashtra,
through Collector, Bhandara,
Tahsil and District Bhandara.

... **RESPONDENTS.**

WITH

CRIMINAL APPLICATION No. 1299/2021.

1.Smt.Archana wd/o Arvind Raut,
aged about 39 years, Occupation
Household,

2.Ku.Samruddhi d/o Arvind Raut,
Aged about 12 years,

3.Divyanshu s/o Arvind Raut,
Aged about 10 years,

Nos.2 and 3 Minors, through their Guardian,
Mother i.e. Petitioner No.1.

All residents of c/o. Gopichand
Chauragade, Near Girls Hostel,
Bhandara, Tahsil and District
Bhandara.

... **PETITIONERS**

Rgd.

VERSUS

1.Kisan s/o Bhivram Raut,
Aged about 77 years, Occupation-
Pensioner;

2.Sau.Raiwanta w/o Kisan Raut,
Aged about 72 years, Occupation
Household,

All residents of Sindpuri, Post
Sihora, Tahsil Tumsar, District
Bhandara.

... **RESPONDENTS.**

Ms. S.O.Tapadiya, Advocate h/f. Mr.A.M. Quazi, Advocate
for Petitioners in APL No.51/2020 & Respondents in APL
No.1299/2021.

Mr.A.V. Muley, Advocate for Respondent Nos.1 to 3 in
APL No.51/2020 & Petitioners in APL No.1299/2021.

Mr.H.D. Dubey, A.P.P. for Respondent No.4-State in APL
No.51/2020.

CORAM : VINAY JOSHI, J.

CLOSED FOR JUDGMENT ON : 12.07.2022.

JUDGMENT PRONOUNCED ON : 24.08.2022.

JUDGMENT :

Heard learned counsel for the parties. By their consent,

Rgd.

Criminal Applications are taken up for final disposal.

Admit.

2. Both Criminal Applications arise out of order dated 15.10.2019, passed in Criminal Appeal No.17/2016, by which the appeal was partly allowed.

Criminal Application No.51/2020 is filed by Parents-in-law, challenging the impugned order to the extent of directing father-in-law to pay maintenance @ Rs.1000/- per month for his two grand-children. The same order is challenged by daughter-in-law in Criminal Application No.1299/2021, contending that the Appellate Court has declined to grant maintenance to her and rejected rest of the reliefs granted by the Magistrate.

3. Respondent No.1 Archana got married with Arvind [deceased]. After marriage she assumed cohabitation at the house of Arvind, who was living with his parents. After few initial days, Archana was subjected to domestic violence, hence, she applied to the Magistrate for grant of various reliefs as provided under the provisions of the Protection of Womens from Domestic Violence Act,

Rgd.

2005 (the D.V. Act). The said application was filed against in all 7 persons stating them to be respondents within the meaning of Section 2[q] of the D.V.Act. The learned Magistrate held that there has been domestic violence at the hands of husband Arvind [deceased] and parents-in-law [petitioners in APL No.51/2020], only and thus, granted monetary relief against parents-in-law only, as husband had expired during pendency of the said proceedings.

4. Being aggrieved by the said order, parents-in-law filed Criminal Appeal No.17/2016, contending that the Magistrate has wrongly held that the parents-in-law have subjected Archana to domestic violence. The Appellate Court has upheld the contention of parents-in-law by expressing that the respondent Archana failed to establish domestic violence at the hands of parents-in-law, however, has passed an order of maintenance as regards to two minor children of Archana. Parents-in-law have challenged said order by contending that in absence of proof of domestic violence, any relief as provided under the D.V. Act cannot be granted. It is submitted that the daughter-in-law herself left the company of her husband, who expired in the year 2013. Father-in-law is 80 years

old pensioner and has no source of income. With this contention, they prayed for rejection of maintenance order.

5. Per contra, Archana in her Criminal Application would submit that the Appellate Court fell in serious error in holding that there was no domestic violence at the hands of her parents-in-law. She contended that despite specific instances of domestic violence, the Appellate Court held that there was no domestic violence and thus, committed serious error.

6. Respondent Archana led evidence of several witnesses to establish the case of domestic violence. Though initially she arrayed other relatives of her husband in the capacity of respondents, however, the Magistrate held that besides husband and parents-in-law, others are not responsible for domestic violence, meaning thereby they cannot be termed as respondents. However, the learned Magistrate held that there has been domestic violence at the hands of husband and parents-in-law.

7. Perusal of the application filed under Section 12 of the

D.V. Act indicates that Archana has mainly concentrated allegations against her husband Arvind. As regards to her parents-in-law, the role ascribed is about humiliating and instigating Arvind for committing the acts amounting to domestic violence. All the allegations against parents-in-law are general and vague in nature. Though it is stated that the parents-in-law once caught hold her, and mother-in-law gave stick to Arvind to beat her, however, this appears to be exaggeration in context with two police reports filed by Archana where said allegation is totally absent. The First Appellate Court has meticulously considered the material and came to the conclusion that Archana has failed to establish domestic violence at the hands of her parents-in-law. On re-examination of entire material, it is evident that the evidence adduced by Archana is vague as regards to her parent-in-law, and therefore, the Appellate Court has rightly considered the said aspect.

8. As regards to grant of monetary relief to the aggrieved person namely Archana is concerned, she is not entitled for the same, since she failed to establish the domestic violence at the hands of her parents-in-law. Under the provisions of Section 20 of the D.V. Act,

the aggrieved person is entitled for maintenance provided that she has been subjected to domestic violence. The Appellate Court has rightly rejected to grant monetary relief to Archana, as on facts she failed to establish the case of domestic violence. However, as regards to two minor grand children are concerned, the case lies on different footing. The very purport of the D.V. Act is to provide adequate protection to the weaker section. In view of the vowed object of the Special Legislation one should not go into the technicalities when the question relates to interest of minors.

9. It is not a case that minors are getting maintenance under any other enactment. The act needs a holistic view in case of vulnerable minors. In order to secure social interest and to provide means of survival, the order of maintenance to the minors can be passed under the Special enactment.

10. Having regard to the limited means of pension, the Appellate Court has awarded maintenance @ Rs.1000/- per month for both the minors. The amount of maintenance shall be in consonance with the means and status of the parties. Considering

Rgd.

the interest of minors, the order of maintenance awarded by the Appellate Court needs no interference. In that view of the matter, Criminal Application No.51/2020 filed by the parents-in-law deserves to be rejected.

As a consequence of above discussion, the daughter-in-law Archana is also not entitled for any relief. Her Criminal Application No.1299/2021 also stands rejected. Both Criminal Applications are accordingly disposed of.

JUDGE