

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

CRIMINAL REVISION APPLICATION NO.13 OF 2019

1. Suhas Janardan Nikale,
Age : 56 Years, Occ. Service,
R/o. Plot No.5, S.B.I. Manisha Colony,
Ganpati Nagar, Rasik Marg, Jalgaon. .. Applicant

VERSUS

1. Sau. Nutan Subhas Nikale,
Age : 49 Years, Occ. Household,
R/o. C/o Smt. Sushila Mukund Kadam,
Opp. Badi Masjid, Mukundnagar,
Ahmednagar.
2. Miss. Sampada Suhas Nikale,
Age : 26 Years, Occ. Education,
R/o. As above
3. Pushkaraj Suhas Nikale,
Age : 31 Years, Occ. Education,
R/o. As above
4. The State of Maharashtra .. Respondents

...

Advocate for Applicant : Mr. Gajanan S. Shembole
Advocate for respondent Nos. 1 to 3 : Mr. N. B. Narwade
APP for Respondent No.4: Mr. K. S. Patil

...

CORAM : S. G. MEHARE, J.
DATE : 07.08.2023

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith and heard finally with the consent of parties.
2. The husband has impugned the judgments and orders of the learned Magistrate, Court No.6, Ahmednagar, passed in Criminal

Enquiry Application No.351 of 2010 on 26.03.2015 and confirmed by the learned Sessions Judge, Ahmednagar by Criminal Appeal No. 110 of 2015 dated 24.10.18, under Section 397 read with 401 of the Criminal Procedure Code.

3. There was a matrimonial discord between the husband and his wife. Therefore various litigations were opened. The maintenance orders were passed against the husband under Cr.P.C. and the Protection of Women from Domestic Violence Act. (D.V. Act for Short).

4. Herein the case, an order passed in D.V Act has been impugned. The argument advanced by the learned counsel for the petitioner reflects that after the impugned order of the learned Magistrate, the petitioner obtained the decree of conjugal rights under Section 9 and then their marriage was dissolved under Section 13 (A) 1 (ii) of the Hindu Marriage Act. The son and daughter have also attained the majority. However, these facts were neither pleaded in the appeal nor brought to the notice of the learned Sessions Court. For the first time, those have been relied upon, and it is further argued that since the marriage has been dissolved and the son and daughter became major, the impugned orders granting them maintenance under D.V. Act be quashed and set aside, as it was the change in the circumstances.

5. Section 25 of the D.V. Act provides for the alteration, modification and revocation of any order passed under the D.V. Act if the circumstances require. The remedy under that Section was and is available to the petitioner. Whether circumstances require to modify, alter or revoke the order shall be tested before the learned Magistrate on examining the subsequent facts. Therefore, this Court has no jurisdiction to alter, modify or revoke the orders impugned for the reason that this is not a fact finding Court. On this legal ground, the petition is liable to be dismissed. That apart, there were no errors on the face of the record in the impugned judgments and orders.

6. The revision application deserves to be dismissed for the above reasons. Hence the following order.

ORDER

- i) The revision application stands dismissed.
- ii) No orders as to costs.
- iii) It has been clarified that the dismissal of this petition does not take away the right of the petitioner to approach the appropriate Court for relief under the Protection of Women from Domestic Violence Act.
- iv) Rule Stands discharge.

(S. G. MEHARE)
JUDGE