

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

CRIMINAL WRIT PETITION NO. 496 OF 2021

1. Deepak s/o Madhukar Yeole,
Age; 41 yers, Occ; Service,
2. Madhukar s/o Shankar Yeole,
Age; 65 yers, Occ; Retired,
3. Sulochana w/o Madhukar Yeole,
Age; 60 years, Occ; Household,
4. Chandrashekhar s/o Madhukar Yeole,
Age; 45 years, Occ; Service,
5. Punam w/o Chandrashekhar Yeole,
Age; 43 years, Occ; Service,
6. Kiran s/o Madhukar Yeole,
Age; 39 years, Occ; Service,

All R/o. Plot No. 08, Madhuras,
Survey No. 892/2/2 Chetan Nagar,
Rane Nagar Nashik, Taluka and
Dist. Nashik.

...Petitioners
(Original Respondents)

VERSUS

1. Suvarna w/o Deepak Yeole,
Age; 38 years, Occ; Coaching Classes,
R/c Sudhakar s/o Ramkrishna
Amrutkar,
At Post; Chinchkheda,
Tq. & Dist. Dhule. ...Original Applicant
2. The State of Maharashtra ...Respondents.

...
Advocate for the Petitioners : Mr. T.K. Sant
APP for Respondent-State : Mr. N.T.Bhagat

Advocate for Respondent No. 1 : Mr. M.R. Wagh

...

WITH

CRIMINAL WRIT PETITION NO. 215 OF 2021

Suvarna Deepak Yeole,
Age; 38 years, Occ; Household,
R/o; Sudhakar Ramkrishna Amrutkar
At Post Chinchekhedda, Dhule
Tq. & District Dhule.

...Petitioner

VERSUS

1. The State of Maharashtra
2. Deepak Madhukar Yeole,
Age; 41 years, Occ; Service,
3. Madhukar Shankar Yeole,
Age; 65 years, Occ; Retired,
4. Sulochana Madhukar Yeole,
Age; 60 years, Occ; Household,
5. Chandreshekar Madhukar Yeole,
Age; 45 years, Occ; Service,
6. Poonam Chandrashekar Yeole,
Age; 43 years, Occ; Household,
7. Kiran Madhukar Yeole,
Age; 39 years, Occ; Service,

All respondent Nos. 2 to 7 are
resident of S. No. 892/2/2,
Chetna Nagar, Rane Nagar,
Nashik, Tq. & Dist. Nashik.

...Respondents.

...

Advocate for the Petitioner : M.R.Wagh
APP for Rspondent-State : Mr.N.T.Bhagat
Advocate for Respondent Nos. 2 to 7 : Mr. T.K.Sant

...

CORAM : R. G. AVACHAT, J.

DATE : 17.03.2023.

JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally at the stage of admission with the consent of the learned counsel for the parties.

2. Both these Writ Petitions are being decided by this common judgment, since the parties thereto are the same and the challenge therein is to one and the same order. For the sake of convenience, the parties and the pleadings in the Writ Petition No. 215 of 2021 are referred to.

3. The facts giving rise to both these Writ Petitions are as follows :

The petitioner wife had filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2012, for short ("PWDVA") Act for various reliefs. The Court of Judicial Magistrate, First Class, Dhule, (for short "JMFC") partly allowed the said application directing the respondent-husband to pay the

petitioner/wife a sum of Rs. 5,00,000/- as compensation under Section 22 of the PWDVA Act. The respondent-husband challenged the said order in appeal. The appellate Court partly allowed the appeal reducing the amount of compensation to Rs. 2,50,000/-. The petitioner-wife preferred a petition for setting aside the order passed in Revision Petition and for restoring the order passed by the Judicial Magistrate, First Class, on 06.01.2021. While the respondent-husband filed a Writ Petition bearing No. 496 of 2021 for setting aside the order passed by the revisional Court directing him to pay compensation of Rs. 2.5 Lacs.

4. The learned Advocate for the petitioner-wife would submit that the respondent-husband has filed one petition for dissolution of marriage by a decree of divorce. Simultaneously he has filed a petition for restitution of conjugal rights. The petitioner-wife was therefore required to spend a lot for contesting both the petitions. The learned Advocate took this Court through the oral evidence of the petitioner-wife to submit that the respondent-husband had caused her mental and emotional torture. The Court's attention was also adverted to the evidence suggesting the respondent-husband earns salary of Rs. 60,000/- p.m. His father is a pensioner. He has his own house to stay in. The another house property has been given on rent. The learned Advocate, therefore, urged for restoration of the

order passed by the JMFC granting compensation of Rs. 5,00,000/-.

5. The learned Advocate for the respondent-husband would, on the other hand, submit that in the proceedings under Section 125 of the Code of Criminal Procedure, 1973, he has been directed to pay a sum of Rs. 10,000/- towards maintenance to his wife. A civil suit has been filed claiming maintenance for a minor daughter. The order may be passed therein directing the respondent-husband to pay the maintenance for minor child. According to the learned Advocate, the quantum of compensation awarded is excessive and exorbitant. The petitioner-wife has made general allegations of ill-treatment. No specific incident has been mentioned in the evidence. According to the learned Advocate, the application moved by the petitioner-wife for compensation was therefore, liable to be dismissed. He, therefore, urged for allowing the Writ Petition.

6. Considered the submissions advanced. Perused the orders impugned herein. This Court in exercise of jurisdiction under Article 227 of the Constitution of India, cannot re-appreciate factual matrix and findings of facts, unless the same is found to be perverse.

7. The respondent-husband is a gainful employed. Grant of compensation and quantification thereof involves some guess work.

Under Section 22 of the POCSO Act, an order can be passed directing respondent-husband to pay compensation and damages for the injuries, including mental torture and emotional distress caused by the act of domestic violence committed by him. It is informed that the respondent-husband has deposited a sum of Rs. 2,50,000/- with the trial Court. This Court cannot re-appreciate evidence on the basis of which the concurrent findings of fact have been recorded as to the respondent-husband to have committed a domestic violence in the nature of harassment.

8. So far as, as regards, the quantum of compensation-damages are concerned, this Court finds that the respondent-husband has been directed to pay a reasonable compensation. This Court is not inclined to interfere therewith, so as to enhance or reduce the same. In the result, both Writ Petitions fail and are therefore, dismissed. Rule is discharged.

(R. G. AVACHAT)
JUDGE

mahajansb/