

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

CRIMINAL REVISION APPLICATION NO.276 OF 2019

1. Devidas S/o Machindra Suse,
Age 34 years, Occu. Nil.
2. Machindra S/o Bhanudas Suse,
Age 60 years, Occu. Pensioner,
3. Sau. Sindhubai Machindra Suse,
Age 55 years, Occu. Household,
4. Mahesh Machindra Suse,
Age 27 years, Occu. Legal Practitioner,

All R/o Dwarkadish Colony,
Plot No.2, Alamgir Road, Bhingar,
Ahmednagar.

... Applicants.

Versus

Sou. Anjali w/o Devidas Suse,
Age 30 years, Occu. Household,
R/o Warjemalwadi, Popular Nagar,
Block 'B', Flat No.13, Pune,
Present R/o c/o Shri. Bharat Vithoba Tupe,
Amrapur, Tal. Shevgaon,
District Ahmednagar.

... Respondent.

WITH

CRIMINAL REVISION APPLICATION NO.116 OF 2018

Anjali w/o Devidas Suse,
Age 30 years, Occu. Education,
R/o Warjemalwadi, Popular Nagar, Pune,
Presently R/o c/o Shri. Bharat Vithoba Tupe,
Amrapur, Tal. Shevgaon,
District Ahmednagar.

... Applicant.

Versus

1. Devidas S/o Machindra Suse,
Age 35 years, Occu. Service.
2. Machindra S/o Bhanudas Suse,
Age 62 years, Occu. Service,
3. Sindhubai Machindra Suse,
Age 55 years, Occu. Household,
4. Mahesh Machindra Suse,
Age 29 years, Occu. Education,

All R/o Dwarkadish Colony,
Plot No.2, Alamgir Road, Bhingar,
Ahmednagar.
5. The State of Maharashtra – Deleted. ... **Respondents.**

WITH

CRIMINAL REVISION APPLICATION NO.112 OF 2018

Anjali w/o Devidas Suse,
Age 30 years, Occu. Education,
R/o Warjemalwadi, Popular Nagar, Pune,
Presently R/o c/o Shri. Bharat Vithoba Tupe,
Amrapur, Tal. Shevgaon,
District Ahmednagar. ... **Applicant.**

Versus

1. Devidas S/o Machindra Suse,
Age 35 years, Occu. Service.
2. Machindra S/o Bhanudas Suse,
Age 62 years, Occu. Service,
3. Sindhubai Machindra Suse,
Age 55 years, Occu. Household,
4. Mahesh Machindra Suse,
Age 29 years, Occu. Education,

All R/o Dwarkadish Colony,
Plot No.2, Alamgir Road, Bhingar,
Ahmednagar.

5. The State of Maharashtra – Deleted. ... **Respondents.**

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Advocate for Applicants in Rev.276/19 & for R.Nos.1 to 4 in
Rev.112/18, 116/18 : Mr. Rajendra S. Kasar.

Advocate for Applicant in Rev.116/18, 112/18 & for
Respondent in Rev.276/19 : Mr. N. R. Thorat h/f
Mr. G. B. Kadlag.

...

CORAM : S. G. MEHARE, J.

RESERVED ON : 03.01.2023

PRONOUNCED ON : 02.02.2023

JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally
by consent of the parties.

2. The applicant Devidas hereafter will be referred to as
'husband' and respondent Anjali as 'wife'.

3. The husband has preferred the Criminal Revision
Application No.276 of 2019. The wife has preferred the
remaining two Criminal Revision Applications. The wife had
filed an application under the provisions of the Protection of
Women from Domestic Violence Act, 2005 (In short 'D. V. Act')
bearing No.136 of 2013 was partly allowed. The learned
Magistrate granted the maintenance of Rs.5,000/- and the
compensation of Rs.1,00,000/- to the wife. The learned

Magistrate also directed to secure alternative accommodation for the wife at village Amrapur, Pune or at Bhingar, Taluka and District Ahmednagar on rent and on submission of the rent receipt, the husband was directed to pay the house rent. The wife had challenged the said order vide Criminal Appeal No.68 of 2016, and the husband had challenged the same order vide Criminal Appeal No.138 of 2015. The learned Additional Sessions Judge, Ahmednagar, by a common order dated 12.03.2018, allowed both appeals partly and modified the order of maintenance granting Rs.10,000/- per month from the date of filing of the petition including the interim maintenance of Rs.4,000/- awarded in Hindu Marriage Petition No.357 of 2013 and declared that the wife is entitled to get the enhanced maintenance of Rs.6,000/- per month instead of Rs.5,000/- from the date of interim maintenance and quashed the remaining orders.

4. Learned counsel for the wife has vehemently argued that each fact was proved, but the Court did not grant the relief of returning ornaments and articles. No appropriate reasons have been assigned for modifying the orders. The reason for refusal to hand over the *Stridhan* is illegal. A very meager amount of maintenance was granted. The Appellate Court recorded the

findings on income contrary to the evidence available on record. The admission of the income of Rs.6,00,000/- per annum has been ignored. The wife is entitled to maintenance of Rs.30,000/- per month. The order granting alternate accommodation or house rent has been erroneously set aside. She had been cheated, and harassed physically and mentally. Hence, she is entitled to compensation. The maintenance amount should be quantified separately. The husband is highly educated; hence, an inference of his high income should have been drawn as he did not disclose his income. Therefore, both revision applications may be allowed.

5. Per contra, learned counsel Mr. Kasar for the husband has vehemently argued that the findings recorded by the learned Additional Sessions Judge are legal, correct and proper. The wife is also a Bachelor of Engineering and has now completed her LLB. She can maintain herself. The quantum granting maintenance is disproportionate. The Trial Court order is illegal, improper and incorrect. He prayed to dismiss the criminal revision applications of the wife and to allow his application.

6. The Court, in limited revisional jurisdiction, has to examine the error on the face of the record and cannot re-

appreciate the evidence. As far as the facts of the case are concerned, both parties have led their evidence. The evidence was appreciated by the Trial Court as well as First Appellate Court. There appear words against words. As far as the quantum is concerned, it was decided in the absence of any documentary evidence on the basis that the husband was working with one private company as a Manager and in Permanent Spoken English Classes. Considering his education, the Trial Court made the guesswork and held that the applicant could earn Rs.6,00,000/- per annum. Considering the standard of living of the parties, their source of income and expenses, the appellate Court quantified the maintenance of Rs.10,000/- and adjusted the maintenance of Rs.4,000/- granted to her in the Hindu Marriage Petition. Therefore, the amount of maintenance is enhanced to Rs.6,000/- per month instead of Rs.5,000/- from the date of interim maintenance.

7. The condition for quantifying the monitory relief under Section 20 of the D. V. Act was that the monitory relief should be adequate, fair and reasonable and consistent with the standard of living to which the aggrieved person is accustomed. The monetary reliefs are granted under D. V. Act in addition to the maintenance granted under Section 125 of

the Cr.P.C. or any other law for the time being in force. Whatsoever the quantum has been determined by the other competent Court of Law in other proceedings under the other Law, the Law is settled that such an amount of maintenance shall be adjusted. It appears that in the absence of any documentary evidence and the fixed income of the husband, both Courts have correctly applied the test determining the quantum of the maintenance on the basis of their standard of living, education and position in society. The Sole reason for enhancement is the failure of the husband to make any arrangement for any maintenance as provided in Section 20 of the D. V. Act. The husband has a case that he has resigned from his post and has no source of income. It does not absolve him from his liability to maintain the wife. A well-abled-bodied husband shall pay the maintenance. Considering their standard of living, to which the wife was accustomed and his capacity to make the income, the quantum enhanced to Rs.10,000/- appears to be just and proper. Therefore, the order of enhancement does not warrant interference and the claim of the wife for maintenance for Rs.30,000/- can also not be accepted.

8. The reason to deny the return of stridhan is supported by the evidence. The Courts have correctly denied the said relief. As far as the compensation is concerned, it appears that both Courts have correctly considered the correct position of Law. The wife could not make out the case for alternate accommodation. Therefore this Court is of the view that the order granting alternate accommodation, the appellate Court has correctly set aside the order granting house rent. Examining the record, the Court does not find any error on the face of the record. None of the criminal revision applications has substance. Hence, the following order :

ORDER

- (i) All Criminal Revision Applications stand dismissed.
- (ii) Rule stand discharged. No order as to costs.
- (iii) Record and Proceedings be returned to the learned Trial Court.

(S. G. MEHARE, J.)

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