

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO. 200 OF 2022

Sonali Bhausahab Vhannure & Anr.	..Applicants
Versus	
Bhausahab Nemgonda Vhannure & Ors.	..Respondents

Mr. Nagesh Y. Chavan for Applicants.
Mr. N. B. Patil, APP for State/Respondent No.5.

CORAM : SARANG V. KOTWAL, J.
DATE : 27 JUNE 2023

PC :

1. The Applicants were the original Applicants in Criminal Miscellaneous Application No.6 of 2014 in the Court of J.M.F.C. Sangli. They had filed a complaint under section 12-A of the Protection of Women from Domestic Violence Act, 2005 against the Respondents therein. The original Respondent No.1 was the husband of the Applicant No.1. The original Respondent No.2 was the mother-in-law of the Applicant No.1. The original Respondent Nos.3 and 4 were the sisters in law of the Applicant No.1 and the Respondent No.5 was her father in law.
2. Learned Magistrate on the conclusion of the proceeding

before him passed the following operative order:

- “1. The Application is allowed partly with cost.
2. The Respondent Nos.1, 2 and 4 (i.e. Husband, his mother Shakuntala and sister Pushpa) were prohibited from committing act amounting to domestic violence against the Applicants.
3. The husband was directed to pay amount of Rs.2500/- each to both the Applicants.
4. The Respondent No.1 i.e. the husband was directed to pay Rs.5000/- to the Applicant No.1, as damages.

3. This order was challenged by the aggrieved respondents before the court of Sessions at Sangli. During pendency of the Appeal, the Applicant No.1's husband passed away and the Appeal was allowed. In the Appeal, it was observed that, since the husband had passed away, there could not be any domestic violence on his part against the Applicants and, therefore, the Magistrate's order to that effect was set aside.

4. Similarly, it was also observed that, as far as, payment of the maintenance was concerned, since the husband had passed away, he cannot be made to comply with the order of payment of maintenance and even that operative part was set aside. So far as

the other respondents i.e. the Applicant No.1's mother in law Shakuntala and sister in law Pushpa are concerned, on merits, the order against them was set aside.

5. Learned counsel for the Applicants submitted that, learned Additional Sessions Judge committed error in setting aside the order against the Respondents Shakuntala and Pushpa. The observations are not correct. He submitted that the husband, while he was alive, did not pay maintenance and, therefore, there are arrears of maintenance. At least, some protection may be granted to the Applicants, as far as, recovery of arrears of maintenance is concerned.

6. I have considered these submissions. Learned Additional Sessions Judge has given cogent reasons while allowing the Appeal. It was observed that, there were allegations that, because of Pushpa's instigation, Shakuntala and Rajashree used to make some allegations against the Applicant No.1. But these allegations were not proved as there was no substance in those allegations. The Applicant No.1 had admitted in her cross-examination that she

had gone to reside at Pune with her husband and, therefore, there was no occasion for her in laws to make allegations against her. She has also admitted that, Pushpa and her husband were residing at Danoli. They were residing separately from the Applicant's family and she was not coming to the Applicant No.1's matrimonial home at Dhavli. When the Applicant No.1 was residing at Pune, at that time, except with her husband, there was hardly any communication with other in-laws. As far as, the allegations against the mother in law are concerned, even they were not substantiated by any other material. On this ground, it was held that, even Shakuntala and Pushpa had not committed any acts which would amount to domestic violence under the said Act. On these observations, the Appeal was allowed.

7. I do not see any reason to take a different view from the one taken by learned Additional Sessions Judge. His reasons are correct and acceptable. Therefore, I am not inclined to interfere with his order of exonerating the mother in law Shakuntala and sister in law Pushpa of the applicant. However, one clarification is required in respect of the arrears of maintenance. If there are

arrears of maintenance which was directed to be paid by the husband till he was alive, the Applicants are at liberty to take steps in accordance with law to recover the arrears.

8. With this direction, the Revision Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)