

Arjun

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

WRIT PETITION NO.179 OF 2022

Mr. Amol Digambar Choudhari ...Petitioner

V/s.

Mrs. Pallavi Amol Choudhari & Ors. ...Respondents

Mr. Avinash B. Avhad, for the Petitioner.

Mr. Suryakant Lavte, for Respondent No.1.

**CORAM : MADHAV J. JAMDAR, J.
DATED : SEPTEMBER 15, 2023**

P.C.:

1. The Petitioner who is husband of Respondent No.1 has filed the present Writ Petition under Articles 226 and 227 of the Constitution of India challenging the legality and validity of the order dated 10th May 2021 passed by the learned J.M.F.C., Pune below Exh.-17 in Criminal Miscellaneous Application No.43 of 2021 as well as the order dated 29th December 2021 passed by the learned Additional Sessions Judge-14, Pune in Criminal Appeal No.84 of 2021.

2. By the order dated 10th May 2021 passed by the learned J.M.F.C., Pune, the said Application bearing Exh.-17 was allowed and direction was issued to the present Petitioner to reimburse the expenses incurred towards medical treatment (brain tumor

surgery) of Respondent No.1 and the said amount was directed to be paid to the brother of Respondent No.1. The Petitioner challenged said order by filing Criminal Appeal No.84 of 2021. The learned Appellate Court by the impugned order dated 29th December 2021 partly allowed the Appeal and directed the present Petitioner to pay medical expenses of Rs.6,09,511/- to the Respondent No.1 incurred for her medical treatment in Sahyadri Hospital, Pune.

3. It is the main contention of Mr. Avhad, learned counsel appearing for the Petitioner that for exercising powers under the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as “**the DV Act.**”) it is necessary for the Respondent No.1 to show that she was required to undergo the operation of brain tumor as a result of the domestic violence and incurred the medical expenses. He submitted that there is no domestic violence and, therefore, the orders passed by both the Courts are without jurisdiction.

4. On the other hand it is the contention of Mr. Suryakant Lavte, learned counsel appearing for the Respondent No.1 on the basis of the decision of a learned Single Judge dated 2nd March 2016 in Writ Petition No.647 of 2016 that the domestic violence includes economic abuse, which is deprivation of all or any economic or financial resources and therefore, the impugned

orders are correctly passed.

5. Before considering the rival submissions, it is necessary to set out relevant portion of the definition of ‘Domestic Violence’ which includes economic abuse. The relevant portion of Section 3 of the D.V. Act which defines Domestic Violence is as follows :-

“3. Definition of domestic violence.— For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

- (a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and **includes causing** physical abuse, sexual abuse, verbal and emotional abuse and **economic abuse**; or
- (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- (c) **has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or**
- (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.”

Explanation I.--For the purposes of this section,--

- (i) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes

assault, criminal intimidation and criminal force;

(ii) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;

(iii) "verbal and emotional abuse" includes--

(a) insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and

(b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested;

(iv) **"economic abuse" includes--**

(a) **deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including**, but not limited to, house hold necessities for the aggrieved person and her children, if any, *stridhan*, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared house hold and **maintenance**;

(b) disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her *stridhan* or any other

property jointly or separately held by the aggrieved person; and

- (c) prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.

***Explanation II.*--For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration."**

(Emphasis added)

6. Thus, *inter alia*, deprivation of all or any economic or financial resources to which the aggrieved person is entitled to under any law or custom whether payable under an order of the court or otherwise or which the aggrieved person requires out of necessity including but not limited to, household necessities for the aggrieved person, is covered under the scope and ambit of "economic abuse" as domestic violence.

7. It is an admitted position that the Respondent No.1 i.e. wife of the Petitioner has undergone operation for treating brain tumor. Therefore, it is clear that her claim is covered by the definition of domestic violence as the same is included in the explanation of "economic abuse" which is also a form of domestic violence. A learned Single Judge in the said decision dated 2nd

March 2016 in Writ Petition No.647 of 2016, has held that domestic violence is defined under the DV Act in the widest possible terms to include not only the physical abuse but also all types of actual acts like mental torture, sexual, verbal, emotional or economic abuse and even the threat and apprehension thereof. It is further held that the definition of domestic violence covers economic abuse i.e. deprivation of all or any economic financial resources. It is further held that, the domestic violence which is defined under the D.V. Act is not limited to the physical harassment or physical violence but it also extends much beyond that and it is with an intention to secure a woman's right to live with dignity, which is guaranteed as a fundamental right under Article 21 of the Constitution of India.

8. Mr. Avhad, learned counsel appearing for the Petitioner has relied on the decision of a learned Single Judge in the matter of *Koushik s/o. Anil Gharami V. Sau. Sangeeta Koushik Gharami & Ors.*¹. However, with respect it is to be noted that the wide definition of the domestic violence as defined under the D. V. Act is not noted in the decision by a learned Single Judge in said case. In any case, in the facts and circumstances of said case, a learned Single Judge has observed that there is no domestic violence and, therefore, the said decision is not applicable to the facts of the

¹ 2014 ALL MR (Cri) 2398

present case.

9. Accordingly, there is no substance in the present Writ Petition. The Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]